82-1658

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

PROPOSED OPINION AND INTERIM ORDER

October 3, 1980

Formal Case No. 722, In the Matter of the Application of WASHINGTON GAS LIGHT COMPANY for Authority to Increase Existing Rates and Charges for Gas Service, Order No. 7193

*Before the Commission:
Ruth Hankins-Nesbitt, Acting Chairperson
Wesley H. Long, Commissioner */ and
Patricia Worthy Clement, Commissioner **/

APPEARANCES:

Melvin Washington, Assistant Corporation Counsel, and Hudson, Leftwich and Davenport by Lloyd N. Moore, Jr. and Louis Ebert, Agents for the Public Service Commission; Lewis J. Winarsky, Melville G. M. Walwyn, Monte R. Edward, R. Stanley Harsh, Harold Rhynedance and Lewis Carroll for Washington Gas Light Company; Brian Lederer, People's Counsel, Elizabeth A. Noel, Assistant People's Counsel, and Harley Daniels, Gerald S. Robinson and Manuel R. Geraldo for the Office of the People's Counsel; Sumner J. Katz for General Services Administration; Frann G. Francis for the Apartment and Office Building Association of Metropolitan Washington, Inc., District of Columbia Councilmember Wilhelmina Rolark, and Florence Robinson for the Coalition of Concerned Citizens.

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*/ Commissioner Long concurs in the result but dissents in part. He will issue a concurring and dissenting opinion.

**/ Commissioner Patricia Worthy Clement concurs.

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BY THE COMMISSION:

HISTORY AND BACKGROUND

On June 29, 1979, Washington Gas Light Company (WGL) filed the above captioned application seeking authority to increase existing rates and charges for gas service in the District of Columbia in order to produce an additional $17.8 million in annual gross operating revenues.

Public notice of this application was given by the Commission through publication in 26 D.C. Register 336 (July 20, 1979), and by WGL through bill insert. Leave to intervene was granted to the Honorable Wilhelmina Rolark of the Council of the District of Columbia, the Apartment and Office Building Association of Metropolitan Washington, Inc.(AOBA), the Coalition of Concerned Citizens (Coalition), and the General Services Administration (GSA). Commission Staff (Staff) and the Office of People's Counsel (OPC) became parties as a matter of statutory right.

On May 18, 1979, WGL petitioned for an Interim Rate Increase, subject to refund, based upon results of the then yet-to-be-filed permanent application (F.C. No. 722-Interim). Notice of that application was made by the Commission through publication in 25 D.C. Register 10465 (June 1, 1979), requiring public responses by June 15, 1979. A pre-hearing conference was held on June 18, 1979, and evidentiary hearings were held on September 17, 20, and 21, 1979. On November 2, 1979, the petition for Interim Relief was denied (Order No. 7049).

WGL's June 1979 application was based on calendar year 1978 pro forma data adjusted for (1) known changes occurring through June 1979, (2) changes expected to occur in labor and associated expenses through June 1, 1981; and (3) changes in rate base through year-end 1981. This Commission's order on the pre-hearing conference, issued September 21, 1979, (Order No. 7040) required WGL to update its test year from December 31, 1978 to December 31, 1979, established ground rules and a calendar for the proceeding. Thirty separate issues

were specified to be addressed in the hearing of the case. 1/

On December 1979, WGL filed supplemental and revised exhibits including pro forma results of operations for 1979, based on 9 months of actual operations and 3 months of projected operations (Order No. 7063). This data was adjusted by WGL for out-of-period labor and associated expenses through June 1, 1980.

On February 20, 1980, WGL filed pro forma results for the 12 months ending December 31, 1979, also adjusted solely for out-of-period labor and associated expenses through June 1, 1980. The February 20 filing claimed a revenue requirement of $17.4 million if rate relief was granted prior to the start of the 1980-81 heating season (WGL Exh. JJ-1, Schedule 4, P. 1). A revenue requirement of $17.8 million was requested if rate relief is delayed beyond the start of the 1980-81 heating season (WGL Exh. A; Heim). Hearings commenced on January 8, 1980, the Commission sitting on banc, and terminated on April 15, 1980, totalling 37 in number.

On March 19, 1980 WGL again requested Interim Relief, which request was rejected on May 9, 1980 (Order No. 7134).

In addition to the evidence presented in the interim phase, the record contains the prefiled testimony of 28 witnesses, 4,944 pages of transcript, 169 WGL exhibits, 51 Staff exhibits, 126 OPC exhibits and 16 Coalition exhibits.

The test year set by this Commission (Order No. 7040) and utilized by Staff and WGL is the calendar year ending December 31, 1979. OPC maintains that the

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1/ Through subsequent stipulation three issues were removed from controversy: Issue 6 regarding weather normalization; Issue 11 regarding the profit on the sale of propane and No. 2 oil; and Issue 25 regarding potential double counting of items in Materials and supplies in construction work in progress. See pp. 76, *post*. Further, as we have divided the case into two phases, with Phase II including rate structure issues, the matters there comprehended have been eliminated from our present consideration.

appropriate test year data is that contained in WGL's initial filing, viz. 9 months actual and 3 months estimated data.

WGL maintains that an up-to-date test year is necessary to reflect the fact that the increase in rates will not take effect before the last quarter of 1980. WGL takes the position that a post-test year rate base, approved by the Commission in prior cases (Order No. 6051, F.C. 686), would have been appropriate here. This argument is indeed interesting, as WGL argues elsewhere in its brief that past test year market re-entry calculations should not be utilized due to our rulemaking proceeding designed to consider whether to utilize a partial or fully projected test year. See Investigation Into Procedures For Dealing With Attrition and Presentation of Rate Cases, F.C. No. 712.

OPC argues that in order to utilize the year-end test year, a completely new cost of service analysis would be required to determine the extent to which the additional revenue required by this update would be contested by the parties in the form of other issues. OPC further argues that because this change in costs and revenues impacts upon taxes and return, it is necessary to have substantially more detailed data available than the expedited schedule permitted .

On March 27, 1980, we ruled that we would rely upon the data filed by WGL on February 20, 1980, for our determination (NT. 4242-43). We see nothing presented by OPC which was not considered by us at that time. See the District of Columbia Court of Appeals case of Potomac Electric Power Company v. Public Service Commission, 402 A.2d 14 (1979) wherein the Court reaffirmed the position expressed in Telephone Users Association v. Public Service Commission, D.C. App., 304 A.2d 293 (1973), cert. denied, 415 U.S. 933, 94 S.Ct. 1448, 39 L.Ed.2d 492 (1974), viz. that effective ratemaking policy should consider and weigh the most recent data available. We have followed the courts' instructions in this decision. In addition, we have gone beyond the test year in order to reflect a projection of added revenues which we believe will be forthcoming to WGL by virture of its market re-entry program. See pp. 35. We believe the projection is reasonable and that its employment is consistent with our test year decision and the cases cited above.

I. RATE BASE MEASURES OF VALUE

A. Plant in Service. WGL claims a net rate base of $103,154,034 (WGL Exh. JJ-1, Schedule 4, P.2). This rate base has been accepted by the parties with the exception of two issues: Cash working capital and depreciation reserve. We therefore use that filed WGL rate base as the point of beginning and adjust this figure based upon our conclusions regarding the two issues, a discussion of which follows.

B. Cash Working Capital

Cash Working Capital is the amount intended to provide a utility with an allowance to cover the cost of carrying expenses (such as purchased gas costs, payroll, and the like) which arise due to the time lag between the date when the utility pays an expense and when it receives the revenue from its customers to cover the payment of that expense.

Prior to considering the several presentations on cash working capital, a few overall observations on the subject are appropriate. We begin with WGL's opening comment in its initial brief, p. 32: "Although cash working capital is simple in concept, its measurement is one of the most complex and confusing aspects of a rate case." We agree, particularly with regard to its treatment in this case. The parties have consumed numerous pages in the transcript and in their briefs to this subject. Without bothering to check, we would venture to say that the evaluation of an allowance for cash working capital has been a factor in every rate case coming before the Commission since its inception. In this circumstance, and considering that the several components going to make up cash working capital remain relatively constant, varying normally only in the dollar amounts, it would seem likely that almost every conceivable question relating to this matter would have been presented to the Commission by this time and resolved for summary application in this decision. Nothing could be farther from the truth. The presentations in this case dealing with WGL's need for a cash working capital allowance and the amount of that allowance are, without doubt, the most confused and confusing it has ever been our displeasure to encounter.

WGL has requested a cash working capital allowance of $6,084,750 including compensating bank balances. (WGL Exh. JJ-1). Staff presented two studies. The first, the method the Staff's witness recommended for adoption, based on the "balance sheet" approach and comprehending both cash and non-cash expenses, would result in an allowance of $22,600,000; the second, confined to cash requiring expenses, showed a need for approximately $9,600,000 (PSC Exh. FF-1). OPC, on the other hand, recommends a negative allowance of $537,000 and a $1,400,000 reduction in WGL's District of Columbia revenue requirement (OPC Exh. F-1).

The fixing of a reasonable allowance for cash working capital is important and we do so herein. We have difficulty in believing, however, that it should be "the single most controversial issue about rate base." (WGL, I.B. p. 32). The matter should not be as difficult as made out by the parties. There are other matters to which their time and attention, and ours, can and should be better devoted in protecting and advancing the interests of both the company and the gas consumers it serves. We suggest, in this light, that some consideration be given by these parties to the recent efforts by FERC to simplify its own procedures for the calculation of a cash working capital allowance 2/ and whether a similar, simplifying approach would not be in the public interest in cases arising before this Commission. Within the near future it is our intention to initiate a rulemaking proceeding with this objective in mind in order to promote a more satisfactory resolution to this subject. WGL will be expected to particpate actively in such endeavor.

We proceed to a consideration of the issue in this proceeding. All parties to this proceeding have computed the cash working capital allowance by the "lead-lag" method. The objective is to determine the "net

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2/ Calculation of Cash Working Capital Allowance for Electric Utilities, Notice of Proposed Rulemaking, Docket No. RM 79-49, issued June 7, 1979. We recognize that the FERC rulemaking is, by its terms, related only to electric companies subject to that Commission's jurisdiction. Also, to our knowledge, no final rule has been promulgated to this date.

lag," that is, the number of days during which WGL bears the costs of carrying expenses incurred in the provision of service before it is reimbursed by ratepayer-supplied revenues. In order to compute what is termed the "net lag" or "net expense lag", the revenue lag (the average number of days between the time when WGL provides service and the date that it receives payment for that service) is subtracted from the expense lag (the average number of days between the time WGL renders service and the date that WGL pays the expenses that result to that service). The expense lag is divided into two categories: (1) The lag days, so-named because they are paid after the services are rendered, and (2) lead days, which are expenses that require payment in advance. The composite of these two figures results in the "net expense lag."

As the revenue lag generally exceeds the expense lag, the difference between the two (net lag) is multiplied by the average daily cash expense to determine the operating expense portion of WGL's cash working capital requirement. To this figure is added "working cash" 3/ balances, resulting in the required cash working capital allowance.

WGL has computed its cash working capital in the same manner as it has in its four previous rate cases, viz., by measuring the revenue and expense lag components on a system-wide basis rather than a District of Columbia operational basis (Tr. 1820). WGL witness Unkle found that the company's system-wide revenue lag is at least 41.93 days. WGL's study computed its system-wide expense lag at 24.87 days. The difference between these two figures, 17.06 days, was then multiplied by WGL's pro forma average daily cash expenses, for a net revenue lag of $18,595,000. To this was added $2,755,000 in working cash, consisting of petty cash, special deposits and minimum bank balances, yielding a system-wide cash working capital requirement of $21,350,000. After allocation, 4/ the cash working capital allowance for the District of Columia was computed by WGL to be $6,084,750.

3/ Working cash consists generally of petty cash, special deposits, and minimum bank balances.

4/ The allocation factor for the District of Columbia was 28.5%.

Staff proposes in its first study that cash working capital include not only cash, but also materials and supplies, imprest funds, and accounts payable due to construction materials and supplies. In this manner, staff seeks to depart from the concept of working capital utilized by the Commission in WGL's last rate case (F.C. 686) in that the Staff seeks to compare revenues from utility operations with utility operating costs including overall rate of return.

Staff would include five types of costs not previously incorporated in determining working capital:

(1) depreciation taxes due to timing differences and deferred investment tax credits at zero lag;
(2) depreciation and amortization expenses at a zero lag;
(3) income available for common stock at zero lag;
(4) interest on debt at a 90 day lag (the mid-point of the semi-annual payments; and
(5) preferred dividends at a 45 day lag (the mid-point of quarterly payments). (Staff Exh. F, p. 11)

By including non-cash items in the working capital allowance, Staff advances the theory that the Company should be allowed to receive all of their revenues on the day that they render service and should be paid immediately for all of the cost of service items that the Commission allows. Staff witness Reiser states that this "balance sheet" approach reflects the true accounting definition of working capital (Tr. 4295, 4297).

Staff's second study proposes a change in the revenue lag base, reasoning that WGL's method did not take into account the receivables remaining after a four month period in its study. Staff concluded ten percent (10%) of the District of Columbia customers had not paid within the four month period (PSC Exh. F., p. 8). The effect of this increase in lag days from 41.93 days to 61.19 days accounts for a large part of the $3.5 million Staff adjustment. In addition, Staff measured WGL's expense lag on a jurisdictional basis. The result was to reduce WGL's expense lag to 21.96 days from WGL's proposed 24.87 days.

Staff also made a downward adjustment to WGL's cash working capital allowance by excluding compensating bank balances (PSC Exhibit F, P. 10). This downward adjustment was more than offset by other Staff adjustments. In addition, Staff measured WGL's cash working capital allowance on the basis of WGL's per book operational expenses for 1979. WGL's measurement of cash working capital, on the other hand, includes various pro forma adjustments for the 1979 per book expenses.

OPC points out that WGL had substantial short-term investments at the close of seven (7) of its past ten (10) years and that this fact, or even the temporary existence of such a surplus on the WGL system, is persuasive evidence that WGL has overstated its working capital requirements. OPC would give initial recognition to the maximum use of the "float" which they claim is not recognized in WGL's cash working capital allowance. While advancing this argument, OPC does not provide us with a method of calculating this "float." In criticizing Staff's method OPC claims that Staff has provided a de facto endorsement of double recognition of the cash requirements associated with delinquent accounts and the award of a working cash allowance for non-cash items.

The method advocated by Staff in its first study conditionally was rejected by us in F.C. 715, Potomac Electric Power Co., Order 7135, mimeo pp. 57-59 (May 15, 1980) wherein we stated:

> It is our determination that this jurisdiction should continue to use the traditional working capital approach in the calculation of an allowance for working capital.

This is not to say that we are forever foreclosing the possibility of moving toward a reflection of non-cash items in our determination of working capital. We are of the opinion, however, that this area would need much further exploration and greater development on the record before serious consideration could be accorded.

OPC submits that 5 factors account for the differences between its suggested allowance of a negative $537,000 and WGL's claim:

(1) Working cash requirements associated with Federal and D.C. income taxes -- OPC Witness Marquart reflects the incremental income taxes associated with, and which would result from, the proposed rate increase, and the associated reduction of working cash requirements on schedule 6, Exhibit F-1, P. 4 of 6. OPC alleges that the proper recognition of federal and D.C. income taxes, which will be payable in the future, will reduce WGL's allowable cash working capital substantially.

(2) Gross receipts tax -- OPC maintains that the vast majority of D.C. gross receipts tax is paid substantially after the collection of the money from the consumer and that an adjustment to cash working capital to reflect this holding of funds is appropriate. They argue that D.C. customers prepay WGL for this component of the cost of service by 12 months. OPC would, therefore, reduce wGL's cash working capital allowance to reflect these facts and the statutory payments dates.

OPC witness Marquart has calculated the net lag of these expenses to be 172.33 days contrasting the WGL claim of 118.37 lead days. (OPC, Exh. F-1, Sch. 6, p. 4, l. 5) OPC's calculation differs from that of WGL in its calculating of the lead from payment dates to financial statement expense recognition dates, whereas OPC Witness Marquart's calculation computes the lag from the payment date to the period when the revenues which gave rise to the tax were collected (OPC, Exh. F. p. 41-42).

OPC further maintains that it is necessary to reflect the gross revenues which will result from this case for purposes of defining the customer contributed capital associated with this item.

(3) WGL's levelized billing plan -- OPC maintains that 11.1% of WGL's D.C. jurisdictional revenues were attributable to customers who elected to have WGL "levelize" their bills. Witness Marquart concludes that WGL's investors were relieved of cash working capital requirements by this amount. The basis of this argument is a computation shown at OPC Exhibit F-1, Schedule 6, P. 3, L. 1-7 which indicates that under the levelized payment plan customers pay their expenses sooner than regular customers. Since the

calculation of revenue is based upon the assumption that all revenues are from regular customers, OPC argues that a reduction in the cash working capital allowance is required to reflect the more rapid payment by levelized payment plans due to over-estimation of consumption by WGL.

(4) Witness Marquart uses an allocated jurisdictional result in calculating his allowance -- this, OPC maintains, would prevent customers of the District of Columbia from paying a working cash allowance for non-jurisdictional taxes.

(5) Exclusion of return component of revenues from consideration -- OPC maintains that although the money for preferred dividends and interest is collected from District customers on a monthly basis, the interest and dividends are paid only quarterly or semi-annually. Witness Marquart quantified the resultant pre-payment and reduced the working cash associated with the distribution of interest and profits to the level actually required by investors.

We do not accept OPC's adjustment to reflect the additional income taxes associated with the rate increase. WGL's expenses, for cash working capital allowance, are based on the company's experience in the test period, with only relatively minor pro forma changes. Even if additional taxes are due as a result of the allowed increase, this should have no effect on the computed expense lag and, consequently, no effect on the amount of the allowance authorized. Also, the amounts allowed for the payment of taxes are a function of the approved cost of service and are not dependent on the calculated revenue requirement.

The gross receipts tax adjustment proposed by OPC is, in our opinion, without merit. Unlike the Federal and D.C. income taxes, the tax liability for the 1979 test year 5/ of $5,212,552 (WGL Exh. (x) 20, 1.5), was calculated on 1978 gross receipts, and was paid in

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5/ The tax is imposed under D.C. Code § 47-1701, and is a franchise tax for the future tax year. It is calculated at 6% of gross receipts for a prior tax year.

three advance installments. 6/ Thus, although measured by gross receipts for a prior tax year, the resulting tax liability as specified on the tax return is for the future year.

OPC's adjustment No. 3 reflects overpayments by Level Payment Plan (LPP) customers during the period July to October during which period those customers paid amounts in excess what they would pay on an actual usage basis for those months.

In estimating a revenue lag of 41.93 days, WGL's lead-lag study focused on October 1978 billings, tracking payments through the remainder of 1978 and those made in January 1979. The Staff concluded that WGL's 41.93 days system revenue lag was conservative on the basis of data showing approximately 10% of the October 1978 billings were still outstanding at the end of the study period. Staff determined that the Company's actual revenue days lag was more probably in the area of 61.19 days. (PSC Exh. F-1. pp. 8-9; FF-1, p.1; Tr. 4162-63 and 4312-19).

Staff's study is convincing that the actual lag experienced by WGL in the collection of revenues is substantially in excess of that shown in its computation. OPC's adjustment, which is based on a simple averaging of the "excess" collections for the period October 1978-January 1979 over the course of the year, is not convincing in the face of the other evidence introduced. Since OPC's proposal does not reflect the actual lag in the collection of revenues, and since the evidence establishes beyond questions that the revenue lag utilized by WGL is not excessive, the adjustment will be denied.

Throughout its last four rate cases, WGL's cash working capital allowance has been calculated on a system-wide basis, with a portion thereafter being allocated to D.C. operations. Although the difference may be small, we agree that henceforth the allowance should be measured on a jurisdictional basis. Since WGL had no reason to anticipate such a change, we shall defer its implementation to the next rate proceeding.

6/ The first two installments were paid on September 30, 1977 and March 31, 1978, on an estimated basis, with the balance being paid on July 31, 1978, on an actual basis.

Finally, with regard to OPC's argument that the payment of the interest expense and dividends should be included in determining WGL's net revenue lag, we are no more disposed to adopt such an agrument than in the past (Potomac Electric Power Co., F.C. No. 651, Order No. 5849 at 12-13, aff'd sub nom, Peoples Counsel v. PSC, 399 A.2d 43 (D.C. Ct. App. 1979); Potomac Electric Power Co., F.C. 715, Order No. 7135 (May 15, 1980).

In view of the foregoing we find WGL's cash working requirement to be $5,453,000 as shown in Exhibit JJ-3 after the elimination of the request for compensating bank balances (i.e. $19,135,000 system allowance times D.C. allocation factor of 28.5%).

C. Depreciation Reserve 7/

The issue of the appropriate allocation of depreciation reserves was originally formulated in Formal Case No. 610 where WGL's methodology for allocating to the District of Columbia its share of systemwide depreciation expenses and reserves was called into question. The Commission directed WGL to reexamine its allocation methodology "with a view to presenting this Commission with a full justification of jurisdictional allocations..." (Order No. 5685, p. 10).

In Formal Case No. 647 this Commission again reviewed the company's methodology. In that case OPC witness Benson and Staff Witness Lim argued for jurisdictional allocation of depreciation expense and reserves in contrast to the system approach to allocation of such expenses and reserves utilized by WGL. That testimony and the company's studies were considered flawed. In Order No. 5833, issued October 29, 1976, the Commission instituted a new depreciation study to investigate the recurring issue of depreciation reserve. That record (Formal Case No. 674, In The Matter Of: Accounting And Depreciation Practices of Washington Gas Light Company) was consolidated in this proceeding by Order No. 7040, issued September 21,1979.

7/ Although commonly utilized, the term reserve is technically inappropriate. A reserve, for accounting and financial purposes, generally connotes a retention or holding of assets but as used herein the term represents merely the accumulation of past charges.

Three studies were conducted for Staff by United Engineers and Constructors, Inc. (UEC) as follows:

1. Analysis and methods of allocating the depreciation reserve among the jurisdictions, March, 1979 (PSC Exh. 7-B);

2. Scenarios comparing the effects of system and jurisdictional accrual rates, December 1977, (PSC Exh. B-9) and

3. Depreciation of gas property in the system, November, 1977 (PSC Exh. BB-1).

These studies, supplemented by the testimony of Staff expert Stephen Kokolski, support the following:

1. The development of a separate depreciation expense rate for distribution plant associated with each of the three jursidictions served by WGL;

2. The development of separate factors for allocating depreciation reserve associated with distribution plant in each of the three jursidictions;

3. The calculation of the annual depreciation expense based on average depreciable plant for the test year, rather than year-end plant balances;

4. The development of new depreciation rates, updated through year-end 1979, that make the book reserve and depreciation expense compatible for this proceeding; and

5. Exclusion of clearing accounts (power operated equipment and transportation equipment) from original cost plant in service and depreciation expense calculations and allocation.

By developing a depreciation reserve which accounts for differences in distribution plant among the jurisdictions, the UEC/Kokolski recommendations generally comform to the criteria for a proper depreciation reserve as established by this Commission in Formal Case 647, Order No. 5833.

In order to account for jurisdictional differences, the UEC studies allocated the book reserve for situs property (e.g., distribution plant) based on actual experience in each jurisdiction. The company's "system method" is maintained for allocating joint-use properties (transmission, production, storage and general plant).

This separate treatment of the reserve for distribution plant is, according to Staff, warranted because distribution plant constitutes almost 90% of total plant in service and has always been allocated on a situs basis, even for ratemaking purposes (PSC Exh. 7, p. 6). In addition, jurisdictional differences in growth, in average service life, and in salvage have been identified with respect to the jurisdiction's distribution plant.

PSC exhibit 7B used jurisdictional reserve data maintained by WGL through 1964. It was possible to update this information through 1966 using jurisdictional annual expense rates which were prescribed through 1966. To this, UEC added the net contributions to functional reserves for 1967-1976, based on average plant balances and prescribed annual depreciation rates.

As a result of updating this information through the 1979 test year, Staff allocated 16.25% of the distribution plant reserve to D.C., compared to WGL's allocation of 20.3%. The UEC's composite allocation factor for the District of Columbia's total depreciable plant reserve is 22.09%. WGL's comparable factor is 25.96% (PSC Exhibit BB-2).

The UEC studies also determined the reserve requirements for the District of Columbia. The difference between the book reserve and the indicated reserve is a part of the actual depreciation expenses borne by investors.

Staff argues that as depreciable plant in service can vary throughout the test year through additions and retirements, the depreciation calculations would of necessity be dependent upon whether the plant account was higher or lower than average (Tr. 2746). They further argue that WGL, in using year-end plant investment rather than the average plant in service to deter-

mine its annual depreciation expense (and the resultant depreciation reserve), has overstated its expense.

In order to calculate the annual depreciation expense and the depreciation reserve, witness Kokolski updated a December 31, 1976 study. He observed a deficiency 8/ in WGL's depreciation reserve which apparently occurred due to a change by WGL from situs book reserve in 1964. To calculate the deficiency, the witness developed a pro forma analysis from 1966 through 1976 which identified what the jurisdictional depreciation accruals would have been under separate rates for each of the three jursidictions served by WGL.

The witness did not agree with the functionalization of the depreciation reserve prior to the allocation of the reserve, but explained that at the time of preparation of the filing, WGL did not possess the requisite information (PSC Exh. B, p. 8). He utilized PSC Exh. B-2 which allocates the depreciation reserves in the same manner as the original cost investments in the WGL cost-of-service study for the test year. The witness identified a total system deficiency of \$11,295,000 as of December 31, 1976 (PSC, Exh. B-8 P 1-2) and a deficiency in the reserve for the District of Columbia distribution plant of 20.03%.

Witness Kokolski's study showed that the reserve deficiency of \$8,290,000 at December 31, 1978 was highest in the District of Columbia for several reasons. First, the book reserve associated with the District of Columbia is in a larger deficit position than any other jurisdiction. Second, there exist some differences in the retirement characteristics between the investment in the District and the other jurisdictions. These differences are seen in average service lives assigned to equipment and salvage values.

8/ A deficiency in reserve is computed by a comparison between an indicated reserve, based on a study of current retirement trends of a class or unit of plant property, coupled with current salvage trends, to the actual book reserves for that same property. A deficiency occurs when the book reserve is less than the reserves indicated by the retirements. The net difference between the two constitutes the amount of the deficiency (Tr. 2822).

In order to recoup this deficiency the witness suggests utilization of the remaining life method to provide for a gradual recovery of these unrecovered costs.

With regard to the witness' second factor leading to the District's high reserve deficiency, to wit: differing retirement characteristics, the witness points to the difference of the mortality characteristics of plant in the District when compared to the other jurisdictions served by WGL (Tr. 2832). It would appear that one of the contributing factors to the deficiency is the assignment of 50-100 year service lives to mains and service lines whereas this equipment has not been utilized for that length of time (Tr. 2833). It should be noted that the mains and services represent 75 to 80% of the overall distribution plant account for the District (Tr. 2846). As is illustrated by the following table, the witness provided a comparison of the average lives of service lines (Account 380; Tr. 2853):

Jurisdiction	Service Life
District of Columbia	35-year life
Maryland	45-year life
Virginia	45-year life

The witness hypothesized that this phenomenon has been caused in part by urban renewal and the 1968 riots in the district.

Witness Kokolski, in performing his calculations, identified the average service life for each of the separate accounts in each jursidiction and concluded that for the District of Columbia, mains (Account 376) would have an average life of 50 years (Tr. 2842). The witness further stated that he utilized the group concept and made no distinction as to the various type of pipe that could have been installed in the gas line system. His conclusions were based upon a mathematical model with the presumption that historical patterns will continue to occur (Tr. 2844).

In addition to the shortened life spans of mains and service lines, the witness also analyzed the net salvage value of the mains (Account 376) and the service lines (Account 380). The witness' testimony is summarized in the following table:

Jurisdiction	Salvage of mains	Salvage of service lines
District of Columbia	negative 25%	negative 65%
Maryland	negative 10%	negative 25%
Virginia	negative 15%	negative 25%

The witness' analysis shows that the cost of removal for each $1,000 of main pipe in the District of Columbia is $250, in Maryland $100 and in Virginia $150. The cost of removing $1,000 of service line in the District of Columbia is $650, and $250 in Maryland and Virginia.

Witness Kokolski arrived at these figures by performing an analysis of the 10-year history of retirements which reflected specific dollar volumes, by identifying the costs of removal year by year for that same 10-year period, and by identifying the salvage 9/ value rceived by WGL for that period of time. The end result of his study was that it was "...more costly to make changes to the investment in the District of Columbia than it was in other jurisdictions." (Tr. 2858).

OPC contends that the Commission should not accept the recommendation of Staff's witness Kokolski because his "... study is incomplete, out-of-date, and sufficiently unreliable so that the Commission should defer the decision on this issue pending further inquiry." The Commission, in OPC's view, was presented with an unclear, confusing and under-explained study of the issue. OPC believes the record does not permit a satisfactory resolution of an issue which will cause the ratepayers to be levied $2.5 million in additional revenue requirements.

As a basis for its contention, OPC states that virtually the entire evidentiary base used by Staff Witness Kokolski in making his presentation to the Commission rests upon information from a depreciation study whose closing date was December 31, 1976, 2-1/2

9/ Net salvage is the net of the cost of removal and the salvage value of the property retired and removed from service.

months after the Commission rendered its decision in Formal Case No. 647. Further, OPC claims, the witness has admitted on the record that his studies may be out-of-date at the same time that the Commission is considering establishing a depreciation methodology (Tr. 2855).

OPC also points out that if the average useful life of service lines in the District of Columbia were increased from its present estimate of 35 years under the study to the 45 years predicted for Maryland, the calculated 1978 company-wide reserve deficiency would be reduced by over 40%. 10/ OPC claims that if the negative net salvage values for service lines attributable to the District of Columbia (negative 65%) were brought into line with the Maryland and Virginia values of negative 25%, the calculated 1978 company-wide reserve deficiency would be reduced by over 25%.

OPC further asserts that Witness Kokolski reached his conclusion that District of Columbia ratepayers are not carrying a fair share of depreciation expense despite the finding that mains in the District of Columbia were determined to have an average useful life of 50 years in contrast to 40 years in Maryland and 45 years for Virginia. In contrast, a lower average useful life of 35 years was assigned to District of Columbia service lines, as opposed to 45 years in Maryland and Virginia.

The large discrepancy in the average life of service lines in the District of Columbia of 35 years was considered by Staff as possibly attributable to accelerated urban renewal activity in the District of Columbia. OPC believes that it is appropriate for the Commission to take judicial notice that such urban renewal activity was accelerated as the result of the 1968 riots in the District of Columbia, which contributed to the need for replacement of many lines. Furthermore, the moratorium on new business was a temporary distortion because of the lack of additions to new service plants, which was not considered by the witness. In short, OPC maintains that the Staff has not met its burden of proof on this issue and, as a

10/ WGL maintains in its reply brief at pg. 72 that the 40% calculation is in error as OPC divided a jurisdictional figure by a system figure.

consequence, the depreciation changes proposed by Staff should be rejected by the Commission.

WGL supports the proposition set forth by Staff Witness Kokolski, claiming that jurisdictional depreciation rates result in each territory bearing a more equitable share of depreciation components applicable to that jurisdiction. (WGL Exhibit F, P. 18; Tr. 1794-96) The method presently used by WGL to calculate depreciation expense and the resulting reserve for depreciation is based upon a system composite depreciation rate as required by the Commission in F.C. No. 647, Order No. 5691. The depreciation reserve was allocated to the District of Columbia in the instant proceeding on the same basis as that employed in F.C. No. 647 and F.C. No. 686 (WGL Exhibit F, P. 17; EGL B-45) to wit: allocated depreciable plant in service. WGL's position respecting determination of the depreciation reserve on a jurisdictional basis is essentially supported, with three exceptions, by Staff Witness Kokolski, who testified that the "WGL cost-of-service methodology with respect to depreciation expense and reserve is an appropriate method in all respects." (PSC Exhibit B, P. 5)

WGL is in accord with all of the adjustments made by Staff Witnesses are appropriate with the exception of one. It agrees that book reserve should be restated but that the restatement should be made based upon the 12 months historical amounts at the new accrual rates. (See PSC Exhibit BB, P. 2; and PSC Exhibit BB-1)

With respect to the second recommendation of the Staff Witness, WGL disagrees that the calculation of the annual depreciation expense for the test year should be based on average rather than year-end, depreciable plant in-service. This disagreement is predicated upon the view that end-of-year depreciable plant in service will more nearly approximate the amount of depreciable plant in service actually present when new tariff rates become effective than will average test year depreciable plant in service.

WGL agrees with Staff's third recommendation that the book reserve and annual depreciation expense should be made more compatible, but not as shown in Staff's exhibit which is based upon 9 month actual and 3 month

estimated amounts for the test year. Instead, WGL proposes that the 12 months actual historical data be used.

WGL also agrees with the recommendation respecting the application of jurisdictional accrual rates to the portions of distribution plant investment devoted solely to the respective jurisdictions.

The major adjustment proposed by Staff consists of a negative $6,776,000 to reflect the implementation of Staff Witness Kokolski's recommendations. These recommendations include the use of average plant, rather than year-end balances, in calculating depreciation expense, and the allocation of 22.09% of the system reserve to the District of Columbia as compared to WGL's 25.96% allocation factor (PSC Exhibit BB-2, P. 1). Overall, the effect of this adjustment is to reduce WGL's claimed reserve of $44,803,000 to $38,027,000.

Staff states that one clear reason for depreciation deficiency in the District is the overly long service lives that were assigned to some of the older plants. Former unrealistic assumptions of a 100-year life resulted in uncollected depreciation even when normal retirement occurred. These old depreciation rates, it is believed, probably used zero net salvage, in contrast to today's negative net salvage, adding to the problem (Tr. 2833, 2849).

Staff claims its analysis identified the District of Columbia's relatively large reserve deficiency as the principal reason for higher annual depreciation rate for this jurisdiction distribution plant. The reserve deficiency translates into a higher depreciation expense through application of the remaining life method. 11/

Staff claims the reserve deficiency should be recouped gradually amortizing it over the remaining life of the plant. Adding these changes to the District of Columbia's annual depreciation expense rate would, of course, increase the present rate.

11/ The remaining life method provides for periodic depreciation reviews and revision of depreciation rates based on a mortality curve, average life and net salvage percentages change (PSC Exh. B-8, p. 3).

We are convinced after consideration of the record and the arguments of counsel that the determination of reserves by the use of average plant rather than year-end balances is the fairest approach since the basic data is predominantly estimates over rather long periods. We are in this area most interested in the broad trends.

OPC's analysis of the Kokolski studies cast some doubt on their total reliability. Because one study indicates a $3 million reduction in the book reserve deficiency in two years (1976-1978), OPC sounds an alarm of possible future trends which we cannot ignore. We shall seek to learn if staff's position is, as OPC puts it, "out of focus". Dominant in our concerns is the validity of the negative salvage values which for mains is twice as large in D.C. as in Maryland and Virginia while in the case of services, Account 380, is 2.6 times greater.

The controversy over depreciation reserve has left this record incomplete, and with too many unanswered questions. We are impressed by OPC's arguments and consider them sufficiently weighty to tip the scales and cause a majority of this commission to find that the UEC study and Kokolski testimony are not so explicit or convincing as to allow a change in the deficiency reserve by several million of dollars.

The results of the study are hereby rejected and disallowed at this time. Until this Commission is provided a more current and convincing analysis, we will allow only that amount which the company has placed as a reserve on its own books.

We will require a new study in the next rate proceeding which tracks, from December 31, 1976 to the current time, the precise mortality and service lives of plant property and related book reserves.

Further, in the hearings on the management audit we shall require that a full explanation be given of WGL's salvage is maximized for the benefit of the ratepayer. This information will assist us in ascertaining whether renewal expenses were necessary or merely matters of convenience to the company.

II. RATE OF RETURN

A. Introduction

As in Formal Case No. 686, WGL's preceding rate case, the parties are in disagreement on a number of capital structure and rate of return issues. All parties have agreed that the company's most recent capitalization, i.e., that which existed on December 31, 1979, should be used in this proceeding. Some of the same issues considered in the capital structure portion of Order No. 6051 have again been raised in this preceeding. Also, there is the usual disagreement on the return the company should be allowed on common equity. To facilitate reference, the following table reflects the parties' positions on capital structure and rate of return:

WGL

Type of Capital	Capitalization (millions)	Ratio	Cost Rate	Wtd. Cost
Long-Term Debt	$ 164.4	46.8%	7.30%	3.42%
Customer Deposits	4.0	1.1	6.00	0.07
Preferred Stock	42.7	12.2	6.49	0.79
Common Equity	140.1	39.9	15.25/15.75	6.08/6.28
	$ 351.2	100.0%		10.36/10.56%

OPC

Type of Capital	Capitalization (millions)	Ratio	Cost Rate	Wtd. Cost
Long-Term Debt	$ 164.297	51.3%	7.17%	3.678%
Customer Deposits	3.920	1.2	6.00	0.072
Preferred Stock	42.704	13.3	6.49	0.863
Common Equity	109.571	34.2	12.90	4.412
	$ 320.492	100.0%		9.03%

Staff

Type of Capital	Capitalization (millions)	Ratio	Cost Rate	Wtd. Cost
Long-Term Debt	$ 162.0	46.5%	7.26%	3.38%
Customer Deposits	4.0	1.1	6.00-8.00	0.07-0.09
Preferred Stock	42.7	12.2	6.49	0.79
Common Equity	140.1	40.2	13.4/13.7	5.39-5.51
	$ 349.0	100.0%		9.63-9.77%

B. Capital Structure

As the chart shows, the parties are substantially in accord as to the long term debt, customer deposits, and preferred stock components of the capital structure. The differences are due to WGL's and OPC's proposed treatment of compensating bank balances and WGL's treatment of gain on reacquired debt, both of which are inconsistent with the Commission's considered decision on these items in WGL's last rate case, and to OPC's proposal to deduct \$30.5 million from the equity component representing WGL's investment in its subsidiaries. We consider the various items *seriatim*.

1. Compensating Balances

WGL prefers to include compensating balances in the rate base allowance for cash working capital. OPC would exclude compensating balances entirely from the capital structure, arguing that they are not related to permanent capital and are included in short-term debt costs in the AFUDC rate. In Order No. 6051, pp. 10-12, this Commission concluded that rate of return treatment, specifically in developing the debt component of the capital structure, rather than inclusion in rate base, "is the most accurate representation of the realities of the compensating bank balance arrangement." 12/ The arguments by WGL and OPC are the same as those advanced in that case and rejected in the earlier Opinion. They are rejected here as well.

2. Gain on Reacquired Debt

In the prior case the Commission also decided to reduce WGL's cost of long-term debt by gains on reacquired debt. The Commission computed the aggregate of all gains since 1955 and included a portion in the test year. Both OPC and staff support the earlier decision and recommend its application here. WGL, which has an appeal pending on this issue, 13/ deducted only those

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12/ *Accord*, Case No. 647, Order No. 5833 (October 29, 1976).

13/ *WGL* v. *PSC*, D.C.C.A., Case No. 79-587.

gains it realized in the test year. WGL states it respects the force of the Commission's earlier view and, while not capitulating, "does not intend to reargue the issue here." 14/ No basis has been shown to change the prior treatment.

3. Subsidiaries

OPC deducted the entire $30.5 million investment by WGL in its subsidiaries on the basis that most of these activities -- excluding the Frederick, Hampshire and Shenandoah Gas Companies -- are not related ("used and useful") to its utility operations. The deduction was proposed entirely from the equity component on the basis that WGL owns 100% of the equity in its subsidiaries and because OPC was unable to determine the source of the funds actually used by WGL in their acquisition (i.e., how much equity, preferred funds, etc.). OPC argues that regulators "normally exclude subsidiaries from the equity component of the capital structure," 15/ that since gas customers do not benefit from these operations they should not bear any of the costs associated with them, and that WGL's subsidiary operations are primarily responsible for the Company's "frightful financial history." OPC refers to a number of state and FERC cases in which a utility company's investment in non-utility subsidiaries was deducted from common equity.

Staff, which presented no evidence on the issue, recommends rejection of OPC's request on the basis that WGL's capital structure is being treated on a consolidated basis and because there is no way to trace the funds received (and, presumably, utilized) by the parent company in these acquisitions.

WGL claims that OPC's proposal involves an arbitrary tracing of dollars, that some FERC cases (although not those relied on by OPC) involving removal of a utility's investment in a subsidiary from equity capitalization are distinguishable in that the subsidiary investment was directly identifiable and isolated, thus permitting the tracing of actual dollars of investment, and that OPC's proposal is inconsistent with

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14/ WGL Initial Brief, p. 28.

15/ Tr. 3366, OPC Initial Brief, p. 157.

the regulatory practice followed in each of WGL's jurisdictions and in which a consolidated capital structure is applied proportionately to the rate base of each entity.

Even assuming, arguendo, some sympathy with the general position on this matter espoused by OPC, there is no way on this record whereby WGL's investment in its subsidiaries can fairly be removed from its capital structure. The information is simply not available at this time to permit anything other than a wholly arbitrary adjustment. To the extent that WGL's operations are treated on a consolidated basis, the detrimental effects are minimized. However, they are not eliminated. Some mitigation also results from the fact that gas consumers are receiving certain benefits from these operations (e.g., the Commission's decision that WGL's shareholders will not be allowed to retain the entire tax savings attributable to the Crab Run losses). The evidence has not been adequately developed to permit the form of adjustment proposed by OPC and the requested deduction should not be made entirely from the equity component. A proportional adjustment to the capital structure would have no effect on the relative ratios among the various components and, accordingly, would be ineffective.

On this record there is no reasonable alternative other than to reject the treatment proposed by OPC on this issue. Nevertheless, we are troubled by the inclusion of the non-utility subsidiaries of WGL in the capital structure and, consequently, are ourselves less than wholly satisfied with the fact that the present outcome has been dictated more by the lack of sufficient evidence than by an evaluation of the issue on its merits. We take this opportunity to express our desire for a more complete development of this matter by Staff and OPC in WGL's next rate case and will require WGL to include, in its evidentiary presentation, all information reasonably required to evaluate the source of the funds used to acquire or establish the subsidiary companies and the relevant capital costs.

After consideration of the foregoing issues, it is our conclusion that the Staff's capitalization should be adopted and that the proportions of the several components shown therein most accurately depicts the company's capital structure for the purposes of this decision.

C. Customer Deposits

In Formal Case No. 686, the Commission determined to adhere to the practice of according rate of return treatment to customer deposits. Order No. 6051, p. 8. In this case all three parties have included the $4 million balance in their respective cost of capital computations at a cost rate of 6%. Staff and OPC claim, however, that WGL should pay at least 8% interest on these deposits, equal to the rate WGL is required to pay in Virginia.

WGL presently pays a simple 5% or 6% interest rate on customer deposits, depending on when the deposit was made. 16/ Although OPC's Witness Smith used the current 6% cost rate in devising her capital structure and overall cost of capital, she recommended that the interest rate to be paid by WGL on customer deposits should be set "at the cost of capital to D.C. ratepayers who are providing such capital to WGL."

We agree with the argument advanced by Staff and OPC in brief that the concentration in this area should not be limited exclusively to the interest rates available on relatively small scale investment opportunities in the open market but also should take into account the interest rates commonly required of customers on deferred payment accounts. As stated by Staff, "It is not unreasonable, for example, to conclude that many of the persons who are required to make security deposits must use consumer loans to make purchases which could otherwise be made with the monies on deposit... Thus, while the Company has use of customer deposits, at a cost of 5% to 6% simple interest, during the minimum twelve month period necessary to establish creditworthiness, the depositor will pay up to 18% for a consumer loan...." 17/

16/ Interest on customer deposits made prior to July 1, 1980, is paid at the rate of 5% whereas interest on deposits made after that date is paid at the 6% rate.

17/ Initial brief, p. 17-18, footnotes omitted.

In a recent rulemaking, the Federal Energy Regulatory Commission concluded that the appropriate interest rate to be applied to refunds is the prime rate charged by commercial banks for short-term business loans. 18/ We believe the basic considerations are similar, although we do not here adopt the FERC's mode for determining the interest rate.

In Formal Case No. 686, OPC pointed out that benefit of the low interest rate is shared by the three jurisdictions in which WGL operates in the same ratio that each jursidiction's rate base bears to the total company rate base. Thus, although District customers provide almost half of all customer deposits, it gets only 25% of the benefit from the low interest rate.

WGL has conceded that an interest rate of 8% on customer deposits presents no threat to the maintenance of its security deposits. Therefore after the effective date of this order any customer deposits now held or required by WGL in the future will accrue a simple interest rate at 8% per annum. On this basis we shall include customer deposits at this same cost rate as indicative of WGL's anticipated experience in its first year of operation under the rates here under consideration.

This same rule shall apply, as well, to all future pipeline refunds.

D. Return on Common Equity

In Order No. 6051, Case No. 686, WGL was allowed a return on common equity of 13.0 percent, for an overall return of 9.25%. In this case WGL seeks an equity return of 15.0% to 15.75%. OPC has recommended a return on equity of 12.90%, while Staff's recommendation is in the range of 13.4% to 13.7%.

The following introductory statement from Order No. 6051, p. 16, accurately describes the Commission's responsibilities in this area and is a guiding principle throughout our consideration of the issue in this proceeding:

18/ Rate of Interest on Amounts Held Subject to Refund, FERC Docket No. RM 77-22, Order No. 47, issued September 10, 1979.

> "In deciding the return which the Company should be allowed on its common equity, we do not view the return allowed in the last case as a floor from which we must inevitably escalate. We are required to fix rates which will produce a return on equity sufficient to maintain confidence in the financial integrity of the Company and enable it to attract capital on reasonable terms. At the same time, the return allowed must not be at so high a level as to contribute unnecessarily to inflationary trends or to encourage misallocation of resources. The proper return under today's economic conditions may be something more or less than at the time of the last case. The determination is a process which calls for the exercise of judgment applied to financial and economic data presented by the witnesses who appeared before us in this proceeding."

All of the witnesses who testified on rate of return for common equity presented evidence based on both the discounted cash flow (DCF) and comparable earnings methodologies. In general, both OPC and Staff found the "bare bones" cost of common equity to be in the range of 12.75% to 13.0%, 19/ whereas the company's witnesses testified that the cost of common equity is 14.5% to 15.0%. 20/ Various "floatation" and "market pressure" adjustments were added by staff and WGL to their recommendations in developing a final cost rate.

1. The DCF Methodology

Dr. Smith, OPC's rate of return witness, testified that the DCF technique is the most generally accepted empirical method for determining the required return on a firm's common equity capital. Messrs. Glassman and Maher, who testified for Staff and WGL, 21/ respective-

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19/ OPC Exh. E-8; Staff Exh. A, p. 37.

20/ WGL Exh. B, p. 41; Exh. C., p. 27.

21/ Evidence on rate of return also was submitted by witnesses Luftig and Monteau on behalf of WGL.

ly, appear to agree with the general utility of this method. In recent cases the Commission has given great weight to the DCF method when considering the cost of equity and the decisions make clear our preference for the use of this approach. As stated in Order No. 6051, p. 17:

> "...The DCF method takes into account current and anticipated income to the investor from dividends and the eventual sale price of the stock. The method of determining the cost of equity under the DCF approach can be stated by a rather simple formula, i.e., market capitalization rate (cost of equity) equals the current dividend yield plus anticipated growth. This constitutes the marginal cost of equity and is commonly referred to as the "bare-bones" cost of capital. Rate analysts usually adjust this figure to allow for market pressure upon the issuance of additional shares of common stock and for the costs of issuing the stock...."

The breakdown of the various components of the several DCF computations is as follows:

	Staff	OPC	WGL
Dividend Yield	8.50%	8.90%	8.50%-8.75%
Growth	4.25%-4.50%	3.80%	5.0%-6.25%
Pressure and Floatation	5%	----	10%
Risk	---	0.20%	-----
Total	13.4-13.65%	12.90%	15.25%-15.75%

a) Dividend Yield

As can be seen, the dividend yield recommendations of the witnesses are all reasonably close, ranging from 8.5% to 8.9%. There are, however, differences in the application of the methodology among the witnesses. Staff's analysis follows closely that approved in F.C. No. 686 insofar as companies examined and use of a ten-year data period. A dividend yield slightly higher than the 1969-1978 average was recommended on the basis

of increasing dividend yields in 1978. WGL's main witness, using a varied list of companies, multiplied current yeilds on "AA" rated utility bonds by 90% to developed a dividend yield for WGL. This method ("risk premium") has been roundly criticized in a number of state regulatory commission decisions. In addition, the list of "comparative" companies are not comparable to WGL, a feature for which the witness was faulted in the decision in F.C. No. 686. OPC's witness used only 1976 data for comparable companies and included at least one company not comparable to WGL.

Staff's 8.50% dividend yield recommendation (and, as hereafter developed, Staff's entire recommendation on cost of equity) seems most reasonable and should be adopted.

b) Growth

Significant differences are present in the witnesses' growth recommendations. Staff's witness analyzed 10-year historical data for growth in book value of his comparable companies. He concluded that trends in earnings per share were too volatile to use for purposes of analyzing growth and that growth in book value per share produces a more reliable estimate. The simple average growth in book value of the comparable companies over the latest 10-year period was 4.30%. Reviewing the energy shortages in the early 1970's and the lack of growth opportunities in the industry, the witness concluded that a reasonable growth estimate would be 4.25-4.50%.

The calculation of the company's witness is again flawed by his use of noncomparable companies, both in retained earnings and in dividend payout history. The witness found a growth rate of 5.36% based on companies whose dividend payout averaged 60%. If a 70% payout were utilized, which is much closer both to the norm and WGL's experience, the average growth rate would have been 4.02%, slightly under the lower end of the range of Staff's recommendation. In sum, reasoned consideration does not support WGL's conclusion in this area.

OPC's witness computed weighted averages for growth in earnings, dividends and book value for a

group of comparable companies over a 10-year period, using correlation coefficients to determine growth rates on which investors allegedly rely on in formulating their expectations for future growth. In Staff's opinion, OPC's prime failing is in the use of Value Line data in determining book value figures. This data does not correspond with the data reported by the studied companies either in their Annual Reports or in the Form 2 materials submitted to FERC, and cannot be verified objectively in any degree. The company itself (A. Bernhard & Co.) incorporates a disclaimer with respect to the validity of the figures used. The differences between the data reported by Value Line and that otherwise ascertainable is substantial, unexplained on the record, and irreconcilable. The use of this data must be rejected in this case. The difference in end result is relatively substantial. Had OPC's witness used Annual Report data, the return on equity recommended would have increased from 12.9% to 13.45%, within the bottom limit of the return recommended by Staff.

c) Market Pressure and Risk

The issue whether an adjustment should be made for market pressure or floatation costs was discussed in Order No. 6051. No adjustment was granted on the basis that no evidence had been submitted to show that WGL had any plans to issue new equity in the foreseeable future. 22/ In this case evidence was introduced that the Board of Directors has approved a five year financing plan which includes a projection that common equity will be issued early in 1981. Staff concludes that although no specific date or plans for the issuance have been set, a "sufficient likelihood" exists to warrant a 5% allowance. OPC disagrees and would not grant an allowance on the ground that the company has no firm plans to issue new common stock. OPC's witness indicated that an adjustment of 3% would have been recommended if more certainty was shown in the area. WGL's witness supported an allowance "around 10%," but

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22/ Order No. 6051, p. 20. Adjustments for market pressure and floatation costs were permitted in PEPCO's 1979 case, and in both WGL's and C&P's 1976 cases.

provided little in the way of reasoned testimony to support the figure.

The decision whether to grant an adjustment to offset the effects of an assumed new issuance is, in all candor, a very close call. The evidence is not definitive. WGL's witness, who is probably in the best position to determine the need for new equity, indicated quite strongly that about $15-20 million would be needed in 1981 from a public issuance of common. Only a minimal amount could be realized from WGL's dividend reinvestment and employee stock ownership plans. The fact that no firm plan for the issuance has been announced at this time is not unusual since such information commonly is released only shortly in advance of the actual event.

On balance, the evidence indicates little more than a possibility of a new issuance of common stock. In our opinion this is not sufficient to warrant an allowance to counter the effects of market pressure and floatation costs on a presumed new issuance. We are not determining finally that an allowance for market pressure and floatation costs may not be appropriate in certain circumstances. Each case must be decided on its own facts. The facts in this case have not dispelled our concern that market pressure is always a one-way street. In our opinion no adjustment should be made for these purposes in this instance.

Dr. Smith, OPC rate of return witness, concluded that the additional risk associated with WGL common stock required an additional 20 basis points added to the industry return (OPC Exh. E., pp. 33-34). As noted, we have not used the precise grouping of gas distribution companies examined by Dr. Smith in formulating her recommendation. Nevertheless, we do agree that WGL is riskier than the norm of most other distribution companies and that an additional allowance in the applied rate of return is both necessary and warranted to reflect this risk. As a judgmental determination we shall allow 25 basis points (0.25%) as an added element to account for this risk factor.

2. Other Considerations

Throughout its testimony and in its briefs WGL has painted a bleak financial history. It contends that its return on equity in 1978 was only 7.92%, one of the poorest in the gas distribution industry, and that it lost $2.5 million in 1979 on its District of Columbia operations. The company further notes that its dividend/price ratio has been consistently higher, and its market to book ratio consistently lower, than for the average of "comparable" companies and that its shares continue to sell for less than book value.

Although no express impact or quantification of these various considerations is possible, we have taken account of the several factors in our selection of a 13.25% return on equity. This return is 0.25% higher than that allowed in the prior case and, we believe, gives rise to an overall rate of return adequate for all necessary capital purposes, both retention and acquisition. Assuming competent management, this rate should provide WGL a reasonable opportunity to earn a return commensurate with other businesses having similar risks and responsibilities.

3. Conclusions on Rate of Return

The evidence submitted by both OPC and WGL has substantial faults, sufficient to preclude major reliance thereon. Nevertheless, the material is significant in its confirmation of the closeness of the findings on dividend yield for employment in the DCF equation. The major differences lie in the growth portion of the equation, where the recommendations range from 3.8% to 6.25%, and in the pressure and floatation adjustment. Staff appears to have followed the same procedures used by the Commission in its prior cases. Its evidence is well supported and was not seriously undermined either in the rebuttal phase or in the briefs. On full evaluation of the evidence and arguments presented, it is our conclusion that staff's recommendations and conclusions for both capital structure and cost allowances, including return on equity, should be accepted. Staff's 13.4% to 13.7% range for return on equity included approximately 0.65% for pressure and floatation. As stated above, we have decided to allow 0.25% to reflect WGL's above-average risk, or a total of 13.25% on equity. On this basis, the final compilation is as follows:

Component	Amount (000)	Ratio	Cost Factor	Weighted Return
Long-Term Debt	$ 162.2	46.5%	7.26	3.38%
Customer Deposits	4.0	1.2	8.0	0.10
Preferred Stock	42.7	12.2	6.49	0.79
Common Equity	140.1	40.1	13.25	5.31
	349.0	100.0%		9.58%

Applying the rounded figure 9.60% overall return to the Company's rate base of $107,493,000 results in a $10,319,000 after-tax return requirement.

E. Attrition

In Order No. 6051, pages 26-29, we denied WGL's request for a lump-sum attrition adjustment to the revenue requirement, stating that we would "continue to rely on the corrective measures adopted in past cases." We noted that the year-end rate base is itself a device to compensate for attrition. The pro forma adjustments to account for known changes occurring after the close of the test year also serve to ameliorate the effects of attrition.

In this case the company has asked for a number of out-of-period adjustments to offset the effects of attrition. Some have been permitted. Also, and most importantly, we have continued the use of the end-of-period rate base. In these circumstances no separate attrition allowance is warranted and none has been provided. The Commission has the entire matter of attrition allowances under consideration in Formal Case No. 712, Investigation into Procedures for Dealing with Attrition and Presentation of Rate Cases, Advance Notice of Proposed Rulemaking, issued February 13, 1979. This is the re-evaluation referred to in Order No. 6051, p. 28. WGL has submitted comments and the matter continues to be under our serious consideration. WGL will be expected to participate fully in all further proceedings in that case.

III. REVENUES

A. Pro Forma Revenues

WGL claims 1979 Pro Forma Operating Revenues in the amount of $118,033,000. We shall utilize this amount as our point of beginning for purposes of adjustment.

B. Market Re-Entry

Of the issues presented to the Commission in this case for decision, few have produced as much controversy and fervor as the issue of "market re-entry." Market re-entry is a short-hand term used by the parties to describe the growth in sales which is expected due to the recent removal of restrictions on adding new customers.

Beginning March 1, 1972, WGL generally was prohibited by the Commission from providing gas service to new customers because of the restricted gas supply situation. 23/ Later, as conditions began to improve, WGL filed applications requesting the authorization of additional sales and, under the Commission's aegis, a planned program was made effective allowing increased sales to existing commercial and industrial customers and the gradual attachment of new customers. See Order No. 5998, May 1978, F.C. No. 687. Although a backlog of applications for new or additional service was created during the curtailment years, actual growth under the Phase I - Phase II program has been substantially less than anticipated. WGL's witness testified that less than 50% of the anticipated growth was actually achieved during the first year. 24/ Phase II growth in firm sales also has been below expectation and the company has sought authority to commit unsold Phase II firm gas to interruptible customers. 25/

23/ F.C. No. 571, Order No. 5829.

24/ WGL Exh. K, p. 9.

25/ F.C. No. 711, petition filed May 21, 1980.

Additional sales under WGL's market re-entry program began in approximately October 1979, although, as noted, at a pace less than fully satisfactory to any of the participants herein. WGL's cost-of-service, which is based on actual results in calendar 1979, includes all growth in customers and billing which occurred in the year. WGL estimated that in 1980 it will sell 5.5 million therms more than in 1979. 26/ OPC has proposed to increase this estimate to 16.8 million more therms and staff has proposed an adjustment to 17.5 million more therms. Both adjustments are predicated on forecast sales over a 12 month period ending in 1981 -- OPC's period is June 1, 1980 - May 31, 1981 27/ while staff appears to be looking to anticipated sales through December 31, 1981. 28/ Staff has projected additional gross revenues of $5,896,000 while OPC has recommended an increase of $6,444,000. 29/

In the present case, WGL maintains that all appropriate revenues and costs have been reflected in its filing and that the Commission should make no further adjustment, arguing that the Commission should not reach into the future in order to attribute additional revenues to WGL due to this recent phenomenon of no gas shortages. WGL has not separately reflected additional revenue from market re-entry sales in its revenue requirement but, based on the growth depicted, the net impact would be $423,891.

Staff contends that since the actual results of market re-entry for the last three months of 1979 are both known and quantifiable, the additional sales revenue anticipated from a full year's operations should be annualized and included in determining WGL's revenue requirement. Staff Witness Raymond claims that the exhibit relied upon by WGL Witness Smallwood (WGL, Exh. K-3, p. 1) does not represent a full year's operation of market re-entry for 1980 but, rather, is merely the sum of the monthly revenues on a cumulative basis (PSC, Exh. C, p. 14).

26/ WGL Exh. K-3.

27/ OPC Exh. C, p. 37.

28/ Tr. 3851.

29/ Staff Exh. CC-1; FF-1, Sch. 2, p. 1.

In calculating the amount of revenues attributable to new sales, Staff utilizes the average cost of gas (19.14 cents) as the appropriate therm multiplier as this amount more closely resembles the cost of service figures and also reflects demand costs (Tr. 3848; 4043; PSC Exh. CC, pp.2-3). Staff argues that this figure, when multiplied by the estimated 1980 therm sales, results in a gross revenue adjustment in the amount of $5,896,000 (PSC, Exh. EE-1, Sch. 2). This amount, argues Staff, is a reflection of market re-entry on an annualized basis during the period of time the rates established in this case will be in effect.

The OPC, pointing to its Witness Donkin's testimony that WGL's major supplier, Columbia Gas, will be able to meet all existing and new loads added by its wholesale customers through 1987 (OPC Exh. C, p. 29, 30), suggests a greater load growth for WGL than the 2.4% forecast submitted by WGL's witnesses (WGL Exh. K, p. 13; Tr. 982). OPC further argues that assuming, arguendo, curtailments were imposed as was the case in the past, WGL's high proportion of residential and commercial loads have created for WGL a relatively favorable "end use profile" entitling it to supplies prior to or greater than other wholesale customers of Columbia Gas Transmission (OPC Exh. C, p. 28-29; OPC Exh. C-6).

OPC argues that the potential for large growth for WGL exists when one considers that the penetration for gas heating in the District of Columbia is only 52% (OPC Exh. B, p. 2; N.T. 2533; OPC Exh. B-8, Table 2), and the high percentage of individually-owned homes and apartment owners who would convert from oil to gas due to the price advantage of gas and the ease of conversion (OPC Exh. B, p. 7, 13-14, 19). OPC would increase revenues by $6,444,000 to reflect market re-entry based upon the addition of 2,292 customers in 1980 (OPC Exh. C) with the associated revenues and expenses through the twelve months ending May 1981. The twelve months ending May 1981 were chosen by OPC in order to closely approximate the first full year following the effective date of the new rates and to correspond to the June 1980 through May 1981 period for which WGL is requesting rate relief to reflect anticipated increases in labor costs.

WGL attacks both the Staff's and OPC's position, arguing that the parties have reached far beyond the test year, effectively destroying the test year concept.

WGL points out that it too has been disappointed with its rate of growth in new sales but contends that this has been due to inflation and soaring gas prices, factors entirely beyond its control. It alleges that since its incremental rate of return on new sales will be 12.58%, or less than its assumed 13% cost of new capital, any increase in overall earnings will be modest. The company further notes that it has been encountering a great deal of resistance in attaching major new commercial customers, its most remunerative business, and that its primary growth market, residential, is now providing a sub-par return as a class; it sees no prospect for increasing its "mix" of large customers as a method of increasing its earned return.

WGL's study of increased revenues and costs resulting from market re-entry 30/ was prepared on an incremental basis and thus excludes non-variable (fixed) costs, i.e., those costs which are constant irrespective of sales volume. Since OPC and staff both relied on WGL's exhibit, the company claims their results underestimate rate base additions, operating costs and revenues. WGL claims that a new cost-of-service would have to be constructed to relate the sales projections with the true costs. WGL concludes that it should be allowed to treat future market re-entry revenues as a hedge against inflation on the basis that, because of "attrition," it has been unable to even approach its authorized rate of return and the additional net revenues, if any, should be used to offset costs not comprehended in the rates to be established in this proceeding.

The arguments on this issue of market re-entry are, overall, unsatisfactory and do not provide a clear avenue for resolution. That this is the case is due to the fact that the matter is treated almost entirely on the basis future projections, and the wide variation in the conclusions which can be developed therefrom, with but little in the way of hard evidence. Nevertheless, a number of considerations are relevant in resolving the issue:

30/ WGL Exh. K-3.

(1) WGL has embarked on market re-entry and some net growth in sales and revenue will take place. The extent to which this will occur during the first year of the rates to be established in this proceeding is not satisfactorily quantified in the record and is unknown at this time.

(2) Adequate gas supplies are available to WGL to meet its requirements now and for a reasonable period into the future, beyond the relevant time period of the rates under consideration.

(3) New gas supplies to WGL will be relatively costly (more so if on an incremental basis, less on a "rolled-in") and this fact will occasion sales resistance on the part of new customers. How much depends on the costs of conversion and the relative prices of alternative fuels.

(4) The initial high expectations for significant new market penetration by WGL in the commercial-industrial sector have not been, and probably will not be, recognized in actual sales. The results achieved by Long Island Lighing Company, Brooklyn Union Gas Company, Boston Gas Company and other northeastern gas utility companies which have shown substantial sales increases and whose experience is relied on by OPC as indicative of the growth anticipated here are not directly translatable to WGL, primarily due to the concern by customers in that region over the price and future availability of imported oil.

(5) Growth (new customers and conversions) will take place in the residential market but not at the pace forecast by staff and OPC.

(6) WGL's argument that sales growth should be used to offset inflationary cost increases is rejected. The Commission is required to do the best job it can in calculating costs and revenues. We will not downgrade our conclusions on one cost-of-service item in order to permit an unstated provision for unquantified variations in another area.

Adjustments to test year data should be made cautiously. This is particularly so for changes in historical sales levels where the adjustment is, as here, attributable to anticipated growth as a result of the

relaxation of a restraint on gas supply over which the company had no control. Undoubtedly, more growth will have occurred in 1980 than is reflected in the 1979 figures if only for the reason that a full year's experience will have been involved, as against only 3-4 months in 1979. The Commission has required WGL to report its sales growth under the market re-entry program. See Order No. 7175, issued August 1, 1980. However, the first report will not be available until July 1981. The 1981 actual results, when known, almost certainly will reflect more sales growth than in 1980. Considering that some growth beyond that reflected in the historical data is a virtual certainty, the question then becomes not whether any adjustment should be made but, rather, the proper amount of the adjustment. In our opinion, the $424,000 revenue effect shown by WGL is too conservative and would not reasonably reflect the experience anticipated in the 1980-1981 time period. Conversely, we believe that the substantially higher net revenue effects forecast by staff and OPC may prove to have been unrealistically high in these initial years. On balance, considering the recent advent of the program and the slower than anticipated pace shown on the record, we shall limit the revenue adjustment, for the purpose of determining the revenue requirement in this proceeding, to a net amount of $600,000.

The extent of the adjustment here allowed will be redetermined in any subsequent rate proceeding involving WGL. Moreover, a second phase of this proceeding previously has been established to consider rate structure issues and a management audit. We shall utilize that opportunity to receive evidence on WGL's efforts to expand its customer base and the overall aggressiveness demonstrated by WGL in pursuing its market reentry program. We shall consider at that time the scale of WGL's promotional activities and whether any incentives, positive or negative, are appropriate to induce WGL actively to seek new business in order to distribute its costs more widely and thereby reduce the per unit costs of its facilities and operations.

C. <u>GSA Sales</u>

A somewhat kindred adjustment, associated by OPC and staff in their briefs with the market re-entry

issue, concerns WGL's treatment of "spot sales" to GSA. During 1979, WGL earned $1,492,118 from the sale of the gas which was used in the West Heating Plant (OPC Exh. C, p. 43, L. 17-18). WGL treated the sale as "non-recurring" and did not include its effect in test year revenues. The sale was comprehended in the PGA provision of WGL's tariff. OPC contends the GSA sale is more akin to a Schedule I-3 (as available) sale than a spot sale and should be reflected at the 1979 level of 9.5 million therms, or approximately $855,000 in additional revenues. Staff agrees with OPC in recommending an adjustment, although at a higher, 13.2 million therm level, equal to the volume of gas sold to GSA in 1979. WGL argues that the revenues from the GSA sale are already flowed through the PGA provisions and that this provides a fair benefit to the ratepayers. It also claims the sale is temporary 31/ and that the volume claimed is too high since the main GSA plant using gas is due to be closed in 1980 for maintenance.

In WGL's 1979 rate case, F.C. No. 686, we expressed concern with continuing to account for spot sales (at that time 27 million therms overall) through the PGA on the basis of a question whether ratepayers are being allocated a sufficient share of the profits from these sales. 32/ The Commission declined to accept an OPC argument to allocate all test period profits on spot sales to the ratepayers. We did, however, state an intention "to explore whether the PGA clause should be revised in order to guarantee a more constant, 50-50 sharing of spot sales profits."

The previous WGL-GSA contract, which expired in October 1979, called for sales of 7.5 million therms. The 1979 consumption exceeded that amount because GSA used the West Heating Plant to supply steam to replace that normally provided by the Central Heating Plant, which uses coal and oil, while the latter was shut down. This situation is not expected to recur. In our

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31/ The present one-year contract expires October 31, 1980, but provides for continuance on a month-to-month basis thereafter.

32/ F.C. No. 686, Order No. 6051, issued February 13, 1979, pp. 43-47.

down. This situation is not expected to recur. In our opinion the 7.5 million therms annual sale is an appropriate normalized figure to reflect the continuing level of anticipated sales to GSA. WGL's revenues and expenses will be adjusted accordingly.

D. Conservation Program

WGL has deducted $716,565 from revenues to reflect the conservation program mandated by the Department of Energy and the resultant decrease in commercial consumption (WGL Exh. K-3, p. 2). OPC submits that WGL is not entitled to a downward adjustment in test year therm sales for commercial conservation inasmuch as it has made no demonstration of the actual reduction.

Staff takes the view that the $716,565 should be readded to WGL's revenues as the conservation program was to terminate April 16, 1980. In their brief, Staff recommends the Commission make no adjustment for the loss of sales attributable to conservation as the current conservation program is non-recurring and, therefore, any adjustment made by WGL for such conservation should not be annualized. Staff states, however, that if this mandated conservation program is continued, it would recommend that the adjustment be made.

We will not give effect to the revenue adjustment requested by WGL. Although the overall conservation program has been continued, adequate supplies of natural gas are available at this time and it does not appear that commercial customers will adhere to the program's strictures with the same degree of intensity displayed in the initial period. We do not condone such relaxation but merely observe and, for this purpose, give expression to that which we perceive to be normal human nature and practice. In our opinion the desired energy conservation will not occur, at least to the level forecast. 33/ In this circumstance, we conclude that WGL's adjustment has not been sustained and the request is therefore denied.

E. Arco Settlement

WGL in its brief states correctly that in F.C. No. 686, the Commission decided both this issue and the

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33/ On this one matter, we would not object to being proven wrong by actual experience.

next, dealing with profits realized from its sale of propane, adverse to its position. In its appeal of F.C. No. 686, WGL has challenged these determinations. Washington Gas Light Company v. Public Service Commission, D.C. Court of Appeals, Case No. 79-587. Consistent with its position on appeal, WGL did not reduce its filed revenue requirement to reflect amortization of either the ARCO settlement or the profit from the propane sale. WGL states that it will nor reargue its position that the shareholders are entitled to retain the benefits from such non-recurring or extraordinary transactions, particularly in light of its failure over many years to earn its allowed rate of return.

OPC and Staff maintain that WGL has presented no new facts which would justify reversing this Commission's prior decision on these items. They therefore recommend that the Commission affirm its prior order and adjust WGL's allocated D.C. cost of service downward.

We agree. No evidence has been submitted to even indicate that we erred in our earlier decision on these matters.

F. Propane Sale

There is nothing to add to our decision in the prior subsection or to our resolution of this issue in Order No. 6051. The appropriate portion of the profit, amortized over three years, will be reflected in the cost of service.

IV. EXPENSES

A. Regulatory Expenses

In Formal Case 715, Re: Potomac Electric Power Company, Order No. 7135, p. 70, this Commission addressed the issue whether PEPCO's regulatory expenses should be made a non-recoverable expense to be borne by its shareholders. We concluded that such treatment would not be appropriate.

OPC now contends that case dealt only with the broad issue of whether all regulatory expenses incurred

by the utility should be borne by the utility's shareholders, and that, in the instant case, the issue has been narrowed to the question of whether or not WGL expenses associated with the litigation of applications which would increase rates should be borne by the shareholders. OPC allows that all other OPC and Commission assessments should be treated as operating expenses to be borne by the ratepayers.

OPC contends that in view of the fact rate proceedings are adversarial in nature, it is inequitable to require ratepayers to pay the company's costs associated with rate cases. They state that the fundamental problem with the present approach is that the utility does not have to answer to its shareholders on the manner in which it incurs these expenses because the costs are all passed to the ratepayers. In effect, there is no control on the utility's spending. OPC states that the absence of any restraints on the utility's regulatory expenses also provides the utility with an incentive to petition for relief, irrespective of the merits of its position.

OPC argues further that while its recommended approach for the treatment of these regulatory expenses is novel to traditional regulatory practice, it is entirely consistent with the American legal system, in that an elementary principle under Common Law is that the parties to litigation should bear their individual costs.

Although OPC urges the Commission to exclude WGL's regulatory expenses from its cost of service, it does not provide evidence as to the appropriate amount of the reduction on which to rests its recommendation to the Commission. OPC asserts this is because its attempts to secure a detailed accounting of all regulatory expenses spent by WGL in litigating this case have been frustrated by WGL.

Despite its lack of recommendation as to an amount to be deducted from WGL's cost of service, OPC requests that the Commission adopt its proposal for prospective application. In addition, OPC requests that the Commission follow the precedent established in Formal Case No. 715 and require WGL in the future to provide a detailed accounting of all regulatory expenses. In this

manner, the parties will be in a position to make specific recommendations regarding WGL's regulatory expenses.

We agree with WGL that OPC's position regarding its regulatory expenses is the same argument rejected in Order No. 7135. In West Ohio Gas Company vs. Public Utility Commission, 294 U.S. 63 at 73 (1935), the Supreme Court held that, in the absence of any challenge to necessity or fairness of the regulatory expenses incurred, these expenses "must be included among the costs of operation in the computation of a fair return." This view was reaffirmed in Driscoll v. Edison Light & Power Company, 307 U.S. 104 at 120-121 (1939) where the Supreme Court held that a utility should be allowed "fair and proper" expenses in presenting its case before the regulatory agents.

Consistent with the ruling in the PEPCO case, the decisions of this Commission for many years have reflected the philosophy that the utility should be allowed to recover its legitimate regulatory expenses, Re: Potomac Electric Power Company, 64 PUR 3d 364 at 368 (1966); See also Re: D.C. Transit System, Inc., 63 PUR 3rd 45 (1966), in which the Washington Metropolitan Area Transit Commission allowed rate case expenses as a necessary operating cost. In Potomac Electric, supra, we said "[rate] cases are a normal part of regulatory activity and, if the expense figures are truly reflective of the facts, they should take into account the expenses of such cases."

Nothwithstanding OPC's extreme position, its Witness Marquart agreed that the increase in WGL's regulatory expenses in recent years was due to the increased level of activity by OPC. As a consequence he felt that some portion of WGL's in-house regulatory expenses should be borne by the ratepayers (Tr. 3534-35).

We believe the law clearly requires that WGL should prevail. Stripped to its essentials, OPC's argument is that the expense should be allowed only if the consumers benefit and that the present rule has been an incentive to making rate applications. We see no evidence of such on this record.

OPC glosses over the fact that WGL is already accountable to its shareholders by virtue of being a corporation. Insofar as OPC claims that all expenses associated with litigation of rate increase applications should be barred, such a criteria is too broad and presumably could be interpreted also to exclude non-legal costs such as expert witnesses and consultants.

We find that WGL should prevail on this issue. Adequate revenues are necessary to maintain an enterprise and to insure not only viability but growth to meet the demands of the public for more service. Financial strength also is required to permit the attraction of capital on reasonable terms to permit the growth to occur. It is not the role of this Commission to create impediments to the process of fair and proper rate applications, which in the long run serve the interests of both customers and shareholders.

Having said that, our responsibility does not end. As always, we must determine what is reasonable in the matter of an expense. We can do that only upon a consideration of all relevant facts and considerations. As noted above, we believe OPC has not produced an evidentiary record on which we could base a re-determination of the company's claim. OPC asserts that the Commission's ruling in some way prevented the submission of relevant evidence. We think the record is reasonably clear and that no prejudicial error was committed. Further, OPC presses in its brief the fact that answers to OPC's first set of data requests of the company, concerning its expenditures for regulatory services, were to use its terms "evasive" and showed a "lack of good faith." OPC chose at the outset not to move to compel answers to interrogatives filed months earlier and left until the last day of the hearing to attempt by cross-examination to elicit the information. That was too late for discovery.

For the reasons stated above we approve the company's claim in full.

B. <u>Depreciation Expense</u>

Staff recommends that the depreciation expense and depreciation reserve be made consistent. Staff sup-

ports the use of a system approach for depreciation plant which is jointly used.

WGL disagrees that the calculation of the annual depreciation expense for the test year should be based on average rather than year-end depreciable plant in-service. This disagreement is predicated upon the view that end-of-year depreciable plant in-service will more nearly approximate the amount of depreciable plant in-service actually present when new tariff rates become effective, than will average test year depreciable plant in-service.

Its argument is that assuming the new, higher tariff rates become effective for WGL several months after the end of the 1979 test year, the depreciable plant in-service on the date the new tariff rates become effective will be higher than either the average test year balance or the end of test year depreciable plant in-service. Moreover, it states that the amount of depreciation expense calculated on the December 31, 1979 depreciable plant in-service balance will be closer in amount to the depreciation expense that will be incurred when the anticipated new rates are collected than would depreciation based on the average depreciable plant in service during the test year (Tr. 3897-99). Therefore, the amount of depreciation expense applicable to the District of Columbia as calculated on PSC Exhibit B-4, which is based upon end-of-year depreciable plant in-service, will more closely approximate the depreciation expense that WGL would actually incur when collection of new rates begin than depreciation expense based on average plant in-service.

The company argues, further, that computing depreciation expense based upon the end of test year depreciable plant in-service amount will eliminate most of the effects of regulatory lag than utilization of that based upon average depreciable plant in-service for the test year (Tr. 3900).

The company counsel concludes by urging the adoption of end-of-test-year depreciable plant in-service for calculating depreciation expenses, as most appropriate in the circumstances to reduce regulatory lag and carry out the objectives of the Commission, expressed in Order No. 6051, of helping reduce attrition.

Staff insists that in Formal Case No. 686, the Commission merely allowed WGL to continue to use its then current method pending the results of the depreciation studies which were subsequently submitted by Staff in the instant proceeding (Order No. 6051, p. 105, 107). We do not concur in this reasoning. Order 6051 and 6010 speak for themselves and require no further comment.

On balance, we think that for this company the end of year method is most appropriate and should be adopted.

C. Consumer Bill of Rights

In Formal Case No. 622, Order No. 6084, the Commission adopted the Consumer Bill of Rights.

The additional costs which are claimed by WGL in this case are exclusive of WGL's pre-existing on-going costs, such as those incurred for an employee on the payroll when the Consumer Bill of Rights was adopted, who must perform new functions because of the Consumer Bill of Rights requirements (Tr. 1675, 1763-66). Insofar as these additional costs can be identified at this time, WGL has quantified certain additional operating expenses necessary to comply with Rules 2-2, 2-3, 3-6 and 6-7 of the Consumer Bill of Rights. (WGL Exh. E, pp 2-3; WGL Exh. E-1; and WGL Exh. E-2 as updated by WGL Exh. EE-1).

Rules 2-2 and 2-3 pertain to the preparation and distribution of customer meter reading cards for residential customers when meters are not read by WGL. Rule 3-6 requires WGL to include on its monthly bills information on the cost components of the bill, billing cycle, and a statement of the customer's rights. WGL states that its annual cost for implementing this rule is $29,762. (WGL Exh. EE-1, P. 5). Rule 6-7 requires WGL to attempt telephone contact with a customer at least two days before the date set for termination of service. The rule further states that if prior telephone contact has not been made, and no responsible person is on the premises, WGL must leave a notice on the premises that service will be terminated on the next business day unless the outstanding bill is paid.

The dollar amounts associated with each of the portions of the Consumer Bill of Rights are as follows:

	CBOR Rule	Costs
Post card reading by customer	2-2	
Content reading cards	2-3	$209,147
Information on bills	3-6	$ 29,762
Personal contact before termination	6-7	$168,152
		$407,061

Subsequent to the adoption of the Consumer Bill of Rights, the Commission in Order No. 7040 posed the question of whether meters should be read on a monthly basis. WGL Witness Freeman testified that while bi-monthly meter readings of residential accounts represents the most cost-effective method of meter reading, WGL will not object to reading such meters monthly. (WGL Exh. E, p. 7; Tr. 1773). WGL points out, however, that monthly meter reading would increase costs for the District to WGL by $361,836 annually, based upon 1979 pro forma data. This cost estimate does not include the related gross receipts tax. (WGL Exh. E, pp. 7-9; WGL Exh. E-3). The cost was investigated by Staff Witness Boyd and was found reasonable.

Subsequent to the hearings, WGL stipulated that it will read meters in the District of Columbia "on a monthly basis [beginning] within 60 days after the effective date of revised rates which are based upon a specific allowance for [the] additional expense" of $361,836. As further stipulated, the reading of meters monthly would make it "unnecessary" for WGL to mail meter reading cards in order to comply with Rules 2-2 and 2-3, and the elimination of these mailings will reduce WGL's Consumer Bill of Rights expenses by $209,147." This, as the stipulation confirms, reduces WGL's Consumer Bill of Rights additional expenses to $197,914.

If the Commission permits WGL to recover its estimated additional annual expenses for monthly meter reading of $361,836, and its expenses for (1) compliance with Rule 3-6, and (2) compliance with Rule 6-7,

the total amount requested by WGL is $559,750. 34/ If, however, the Commission declines to grant the request for $361,836 to permit monthly meter reading, WGL would continue to request the total of $407,061, which would cover its estimated additional annual expenses of complying with Rules 2-2 and 2-3 as well as Rules 3-6 and 6-7.

WGL asserts that there are no efficiences or reductions in cost that will accrue to WGL from its compliance with the CBOR. WGL stresses the fact that its additional compliance costs are exclusive of its preexisting ongoing costs and that there is no basis for OPC's contention that the CBOR benefits WGL's stockholders. All benefits would flow to the ratepayers. WGL points out that it will not, as OPC avers, achieve some measure of "customer goodwill" and notes that monthly meter reading, telephone and personal contacts of delinquent customers per Rule 6-7 could create ill will. WGL contends that it is entitled to full recovery of its projected CBOR cost estimates which the record shows to be based upon the optimum but least costly approach.

Staff, after review of WGL's cost estimate for Rule 6-7, found it reasonable. In addition, Staff testified that WGL's cost estimates for compliance with Rule 3-6 also was reasonable. Staff's main concern is with the apparent inefficiency of WGL in not maintaining customer's telephone numbers in order to contact them prior to termination. According to Staff this inefficiency has been translated into somewhat higher costs in complying with Rule 6-7. Staff, nevertheless, has found WGL's method of implementing Rule 6-7 reasonable. Accordingly, Staff recommends that WGL be allowed all costs sought for in the implementation of these rules.

34/ TABLE 6A

Rule	Cost
2-2; 2-3	$ 209,147
3-6	29,762
6-7	168,152
	$ 407,061
Monthly Meter Reading Stipulation	- 209,147
	$ 197,914
Cost of Monthly Reading	361,836
	$ 559,750

It is OPC's position that WGL carries the burden of demonstrating that the claimed incremental costs associated with the CBOR are necessary and that such costs are not offset by cost savings resulting from the elimination of prior practices or benefits inuring to the company from its compliance. OPC maintains that WGL has not carried its burden on the record of this case, but with regard to Rules 2-2 and 2-3 OPC acknowledges the stipulation agreement entered into by the parties. They state, however, that this stipulation does not relieve WGL of its obligation to provide meter reading cards to those customers whose meters are located inside their homes or otherwise are inaccessible.

OPC states that WGL carries the burden in demonstrating that "the inclusion of the overall costs in the final design and implementation of Rules 3-6 and 6-7 of CBOR is the optimal and least costly approach." In addition, OPC states that WGL must show why the costs should be fully underwritten by the ratepayers since the shareholders benefit as well. OPC contends that WGL has failed to make an affirmative showing in both cases.

OPC questions WGL's ability to estimate accurately the additional costs associated with the Consumer Bill of Rights. In this regard, OPC finds it unusual that WGL is able to predict future labor costs on the Consumer Bill of Rights but unable to do so with market re-entry.

OPC further claims that it appears that a portion of WGL's estimated expenses associated with termination of service (Rule 6-7) have heretofore been incurred by the company. For example, WGL Witness Freeman testified that prior to Rule 6-7, the company would attempt to contact customers before terminating service. (Tr. 1668). OPC further states that there were costs associated with WGL's prior termination of service practices that should not be reflected as additional costs. In addition, states OPC, Rule 6-7 has the potential of reducing WGL's need for short-term borrowing by decreasing the revenue lending days (Tr. 1710).

OPC contends that inasmuch as the Consumer Bill of Rights benefit both ratepayers and stockholders, ratepayers should not be required to bear its full costs.

They claim that it would be proper for the Commission to consider benefits, such as company good will, flowing to WGL's shareholders from the improved efficiency of the company and customer relations.

OPC concludes that, considering (1) the benefits which will accrue to WGL and its shareholders, (2) WGL's failure to demonstrate whether these benefits have been properly reflected in the cost of service, (3) the reliability of WGL in making accurate estimates, and (4) the portion of the Consumer Bill of Rights costs which have already been incurred prior to its adoption, it is more equitable for shareholders and ratepayers to equally bear these costs.

The evidence of record indicates that WGL may benefit in a minor manner from compliance with the CBOR. However, it is the consumer who will be the prime beneficiary. On balance, WGL claim appears proper and we approve the net expense of $559,750 which includes the cost of monthly meter reading. WGL shall be expected to honor its stipulation and to inform the Commission of its plans in this regard.

D. Advertising

WGL has included in its cost of service study expenses for advertising, trade associations, business and civic organizations and community affairs. The Office of Peoples Counsel takes issue with all of these expenditures. Staff, on the other hand, takes issue with only the advertising expenses. WGL's argument was rejected in Formal Case No. 686 which is currently on appeal in the District of Columbia's Court of Appeals but WGL asserts that the outcome of F.C. 686 may not be dispositive in the instant case, inasmuch as the evidence in this case is much more substantial.

WGL argues that the recovery of advertising expenses is proper and cites again the case of West Ohio Gas Company v. Ohio Public Utilities Commission, 294 U.S. 63 at 72 (1935) as the leading case where the Court noted that "...within the limits of reason advertising or development expenses to foster normal growth are legitimate charges upon income rate purposes..."

35/ WGL contends that OPC's arguments against the position are contradictory and should be rejected because there is no evidence demonstrating that WGL's expenses are extravagant or improvident.

Staff asserts that at least a portion of WGL's advertising is calculated to benefit the customer, and that while the Commission has not formulated a strict test with regard to the allowance of advertising expenses, it is clear that such allowance must be predicated upon some direct benefit to the customer. While OPC, in its cross examination of Mr. Raymond (Tr. 1889), stressed the fact that the company made no specific surveys to determine the educational effect of its informational advertising, the Commission, Staff argues, can properly infer that certain types of advertising such as "conservation tips" would benefit the consumer. The benefit of other types of informational advertising, such as that concerning the gas supply situation, it concedes is more remote.

Based on its cross examination of Mr. Raymond, Staff contends that the precise categorization of each instance of advertising, and its placement in a particular bookkeeping account is, at best, a task requiring discretion. Staff proposes to eliminate this subjective endeavor of determining the degree and benefits of institutional and informational advertising by allowing the company a pool of dollars to cover the costs of institutional and informational advertising. This is in addition to its proposal that promotional advertising expenses, FERC Account 913, be considered an allowable expense. Staff cites as the basis for its position cases recently decided in the States of New York and Missouri. See: Statement of Policy on Advertising and Promotional Practices of Public Utilities (N.Y.P.S.C. Feb. 25, 1977; The Brooklyn Union Gas Company, Opinion 78-28 (N.Y.P.S.C. November 28, 1978)); Rochester Gas and Electric Company, 64 App. D2d 345, 410 N.Y.S. 2d 142 (Super. Ct., App. Div., 3d Dept. 1978); and In Re La Clede Gas Company, 27 PUR 4th 241 (Mo. 1978).

35/ WGL contends that expenses for the other above noted activities, i.e. trade associations, etc., are also recognized in this manner. We consider these items subsequently.

Staff claims that institution of this policy would accord some partial recognition of informational and institutional advertising as an allowable expense of doing business. Thus, Staff proposes that one tenth of one percent (0.1%) of WGL's operating revenues be permitted as an allowance for such advertising. 36/ Staff maintains that its determination of 0.1% is based upon various factors including company size, geographical location, number of customers and the cost of doing business in the area. (PSC Exh. D-1, P. 1)

Staff states the policy in New York with respect to promotional advertising of natural gas has generally been to exclude it as an allowable cost of service. However, that policy was based on a gas supply shortage existing at the time when the policy was formulated, unlike the current situation of WGL and gas supplies in general. Therefore, Staff recommends that the Commission adopt a policy similar to that of New York with respect to institutional and informational advertising.

Staff further states that, in view of the Commission's authorization of the company's market re-entry program, reasonable expenses in support of that program, as well as in support of combating attrition, should be considered as benefitting the ratepayer directly. In the absence of any indication that the company's promotional advertising campaign has been excessive or otherwise unreasonable, Staff recommends that the expenditures be included as allowable test year expenses.

OPC states that while it is an accepted principle of public utility law that a utility is entitled to a reasonable sum for advertising, "the burden rests with the utility company to justify such expenditures and demonstrate that they are significantly beneficial to

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36/ The New York Policy Statement allows a range between .1% and .04% of operating revenues to be utilized for such advertising. Rochester Gas and Electric Co., Supra. Specific cases involving gas companies have usually allowed costs based on the upper-end of this range. See Re La Clede Gas Co., Supra, 27 PUR 4th at 250 (allowing .1%); The Brooklyn Union Gas Co., Supra at 66-7 (allowing .1%); and Rochester Gas & Electric Co., Supra (allowing .1%).

ratepayers," citing Re Pacific Telephone and Telegraph Co., 90 PUR 3rd 172 (Cal 1971); Re Pacific Gas and Electric Co., 87 PUR 3rd 270 (Cal 1971); Re Union Electric Co., 29 PUR 3rd 254 (Mo., 1959); and Re Boston Consolidated Gas Co., 30 PUR N.S. 260 (Mass. 1939).

OPC notes that in Formal Case No. 686, the Commission stated, "Whenever WGL wants to charge its advertising to the ratepayers, it must carry the burden of proof." Order No. 6051, p. 69. The Commission recently affirmed that position in Formal Case No. 715, wherein it denied above-the-line treatment for PEPCO's advertising expenses on the grounds that PEPCO failed to put forth an affirmative case showing that the expenses were reasonable and appropriate. Order No. 7135, p. 75.

OPC submits that the Commission should disallow for ratemaking purposes all advertising expenses, membership, business, and civic support dues, trade association dues, and community activity expenses for the 1979 test year period because the company has failed to meet the required Commission standard of demonstrating that such expenditures conferred a substantial benefit on the ratepayers, or that such costs are a necessary part of providing or improving gas service to the customer. OPC maintains that such expenses should be disallowed in the instant proceeding because WGL has failed to demonstrate the appropriateness and reasonableness of these expenses in accordance with the standards articulated by the Commission. It is OPC's position that the ratepayers should not pay for WGL's "ill-conceived and poorly executed public communications program." OPC states that WGL provided no substantive evidence with respect to 1979 test year period advertising expenses with the exception of WGL Exh. B-1, Schedules G-K (photocopies of advertisements). With regard to WGL's general advertising OPC claims that the amount expended to reassure customers of natural gas supply was a non-recurring expense (Tr. 1549, L. 1-10, L. 15-16).

OPC would have us reject WGL's argument that attrition of customers was a problem during the 1979 test year period. OPC states that WGL's promotional advertising expenditures also included the underwriting of advertising incurred by appliance dealers. This, OPC maintains, is unnecessary. In support of its

position, OPC points to the "PURPA" standards set out at 15 U.S.C. §§3203(b)(2) and 3204(b), which prohibit the recovery of expenditures for promotional or political advertising from anyone other than "shareholders or other owners of the utility." OPC urges the Commission to adopt the "PURPA" standard with respect to gas companies as the Commission has adopted the analagous PURPA standard applicable to electric utilities.

WGL included $494,684 in its claimed cost of service expended for information advertising to promote new energy efficient appliances and conservation measures. OPC maintains that WGL has failed to demonstrate the manner in which these expenses benefit the ratepayer or improve or provide service with the exception of the pamphlet which informs customers of the method of turning off their furnace pilots for the summer. It is only this portion of the expense (the cost for the pamphlet) which OPC believes is properly charged to the ratepayers. OPC recommends that the Commission not adopt Staff's formula for calculating the proper level of advertising expenses. OPC also argues that there should be a special market re-entry account to assure that the funds are properly utilized and comport with standards set by the Commission along with appropriate restrictions on WGL's use of the fund.

OPC's contentions are much too subjective. Almost limitless problematic situations could arise. For example, a utility sets out to provide what might be assumed to be a reasonably budgeted consumer advertising program. It develops that the results are so "bad" (perhaps due to a poorly produced T.V. program), that a disgruntled viewer argues the Commission should not charge the cost to the consumer. OPC's proposed accounting method would require that a rating board be created to rate the quality, content, etc. of the advertising campaign to determine if the expenditure was reasonable. This scenario could readily result in a high degree of governmental supervision leading to excessive managerial oversight by the Commission and a potential for abuse. The Supreme Court recently decided two cases involving attempts by the New York Public Service Commission to limit regulated utilities in their rights of "commercial speech." See Central Hudson Gas & Electric Corp. v. New York P.S.C., 34 PUR 4th 178, 100 S. Ct. 2343 (1980); and Consolidated Edison Company of New York, Inc. v. New York

P.S.C., 34 PUR 4th 208, 100 S. Ct. 2326 (1980). In both instances the Court invalidated restrictions imposed by the New York Commission. We are not here concerned in this case with limiting WGL in its right of commercial free speech. It may speak as it will. We are concerned with requiring the ratepayers and consumers to pay the costs of advertising in situations where the benefit to them is not clear, is small or, indeed, even non-existent.

We believe WGL should be permitted to recover its costs for public service advertising, and advertising dealing with matters of public safety (including safety of the company's employees), conservation, and the promotion of new or additional sales. Promotional advertising designed to foster WGL's market re-entry program is particularly encouraged. It should not recover any costs for "political" advertising and, as discussed in the following subsection, expenses for institutional "image building" advertising and for trade associations and membership dues. Considering WGL's actual expenditures in these areas, the Staff's approach seems proper. One-tenth of 1% is not "carved in stone", but appears a figure that is reasonably related to the volume of business of the enterprise. Accordingly, for purposes of this case we will allow the amount recommended by Staff. We will continue to observe WGL's expenditures in this area to assure that our restrictions are observed.

E. Trade Associations and Membership Dues

WGL has included within its cost of service funds for trade association, business and civic organizations and community affairs expenses. The trade association activity, WGL claims, benefits ratepayers by bringing about improved productivity and efficiency. The business and civic organization funds encourage expansion of business in the community, thereby helping to increase the wealth of the community and increase the company's non-residential load.

OPC takes issue with these expenses, utilizing as a basis for its objection the decision in Formal Case No. 686, wherein the Commission held that above-the-line treatment of trade association dues ("AGA") and business and civic membership and support would only be permitted where WGL had demonstrated that these expen-

ditures improve customer service in that ratepayers benefit in terms of gas service. Order No. 6051, Formal Case No. 686, pp. 70-72.

In the foregoing section we have stated the limits of the allowance provided for all matters of this nature. Ratepayers will no longer be assessed in their rates for the costs of self-serving, institutional advertising by WGL and for WGL's participation in trade associations, business and civic associations, community affairs expenses, and like membership activities requiring dues.

F. Gas Research Institute

The Gas Research Institute (GRI) was formed in 1977 to coordinate and accelerate critically needed research into gaseous fuels. It replaced the American Gas Association's efforts in this area. The membership of GRI consists of 137 distribution companies, 28 interstate pipeline companies and 24 municipal utilities and represents the vast majority of gaseous fuel suppliers in the United States. WGL is a member as is Columbia and Transco, WGL's pipeline suppliers. The research and development program under GRI is reviewed by its advisory council, research coordination panel, industry technical advisory committee, and municipal gas system advisory committee, which evaluate GRI research from the viewpoints of economic, consumer, environmental, scientific, industrial and regulatory interests.

WGL states that each year GRI submits its five-year research plan and budget to FERC for review and approval to insure that its activities are prudent, well-designed, and in the public interest. Once approved, the costs of funding the research program are embodied in the wholesale cost of gas. WGL is thereafter assessed by its pipeline suppliers for these charges as part of its gas bills. WGL's portion of the costs through October 1979 which is allocated to the District of Columbia operations is $93,000 (WGL Exh. H, p. 7). However, GRI's budget continues to grow throughout its most recent five-year forecast period and, with it, WGL's share. Thus, WGL's projected contributions to G.R.I. on a D.C. basis are $127,109 for 1980, $175,665 for 1981, $213,930 for 1982, $246,846 for 1983, and $254,162 for 1984 (OPC brief, p. 233).

WGL argues that a utility is entitled to charge all of its legitimate operating expenses to its ratepayers and that its GRI assessment is no different than the expenses it incurs for any other utility operation. It cites Mississippi Fuel Corporation v. FPC, 163 F.2d 433 at 437 (D.C. Cir. Ct. 1947) and West Ohio Gas Company v. Ohio Public Utilities Commission, 294 U.S. 63 at 72 (1975) for the proposition that the allowed return on investment, which is that amount over and above expenses, must be provided and that the court -- and presumably this regulatory agency -- should not substitute its judgment for a utility's as to the appropriate amount of an expenditure.

WGL claims that were it not to pay its assessment it would not be able to buy its gas supplies, in that the assessment is merely one component of WGL's commodity cost of gas which it is legally entitled to recover. WGL claims that neither the District of Columbia Commission nor the company has any control or any right of control over the company's commodity costs except to the extent that each, by intervention in federal rate proceedings, exercises its powers of persuasion.

WGL maintains that the GRI research and development programs benefit the ratepayers by improving the gas supply, promoting the conservation of natural gas and safety programs, improving environmental quality, and eliminating fragmented and often duplicative research which individual companies might otherwise undertake. In view of the foregoing, WGL maintains that the entire amount allocated to GRI in its cost of service study should be allowed by the Commission.

Staff's position is similar to that of WGL. Staff argues that the Federal Energy Regulatory Commission has specificially authorized the GRI surcharge for interstate gas as a reasonably incurred operating expense under the "filed rate doctrine." The charge, staff maintains, is also recognized as a component of the legal rate charged to WGL. Narrangansett Electric Company v. Burke, 381 A.2d 1358, 1362 (R.I. 1977), cert denied 435 U.S. 972 (1978). Staff also agrees with WGL that as the company has no realistic choice but to pay the rate included in the GRI charge, equity would demand that these increased costs be recovered in a rate adjustment.

OPC equates this issue with the AGA expense issue, in that WGL has to carry the burden on the record of the propriety of these expenses. OPC cites the case of Re: Western Slope Gas Company (Decision No. C79-907, 1979), a Colorado decision which denied a utility its request for automatic flow-through of the GRI assessment but did permit the company to set out the charge in the context of the general revenue investigation. OPC maintains that the record in this proceeding has failed to specify or quantify potential benefits to customers from WGL's participation in GRI. OPC submits that D.C. ratepayers can expect little or no benefits from WGL's proposed funding of GRI.

OPC maintains that the benefits of GRI will go to manufacturers first, appliance dealers second and WGL and its ratepayers third. The benefit would flow through to the ratepayer only to the extent that he utilizes and purchases the new, efficient gas appliances.

OPC contends that the Commission's duty to establish rates has not been usurped by the actions of FERC in approving the GRI budget. OPC submits that the District of Columbia Commission has independent authority to determine the ratemaking treatment of GRI on its own, irrespective of the manner in which FERC has decided the issue. OPC concedes, however, that there is controversy over the question of whether the FERC decision preempts this Commission from disallowing the GRI contribution. This preemption is being challenged in the case of State of Colorado v. FERC (D.C. Cir., C.A. No. 80-117). OPC would have the Commission reserve decision on this matter and render a separate decision when the legal authority issue is resolved by the court in the above captioned case.

We do not contest the viability of the proportionate assessment by WGL's pipeline suppliers of its share of GRI's annual costs. We also are aware that FERC has decided not to mandate shareholder contributions by its member companies to meet GRI's annual budgetary needs. 37/ Such action, however, does not

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37/ Gas Research Institute, Order Denying Request to Require Shareholder Contributions, Docket No. RP 78-76, issued May 23, 1979.

predetermine our obligation to assure that the D.C. ratepayers are charged no more than is reasonably necessary by WGL for the maintenance of safe, efficient and adequate gas service. We recognize that the GRI program may provide some benefits to ratepayers in the future. Nevertheless, insofar as the immediate consumer is concerned, these benefits are indirect at best and, in our opinion, will be substantially less to residential consumers -- which comprise the majority of WGL's customers, both in terms of absolute numbers and in volumes of gas consumed -- than they will be to industrial and commercial customers and to the gas utility companies in general.

In Order No. 6051, pp. 69-71, we considered whether certain payments made by WGL to the American Gas Association in support of its activities were properly included as an expense to be charged to WGL's ratepayers. We concluded that they should not be so charged because there was no evidence that the activities financed served to improve customer service. Although GRI's program differs in major respects from that of AGA, the principle underlying the decision on cost recovery is the same.

In our opinion WGL and its stockholders stand to receive a substantially greater benefit from the company's participation in GRI than will the customers themselves. Nevertheless, at this time WGL's share of GRI's costs is relatively small -- $93,000 -- and a number of activities being engaged in by GRI do hold at least a promise of providing some general benefit to all gas consumers, including those of WGL. Accordingly, we shall allow the current amount in this case as part of the wholesale commodity cost of gas to the company. Any increases above this amount will be considered in later cases. In addition, we will expect WGL to review critically GRI's annual budgetary submissions and to participate fully in any proceedings on this subject before that agency.

G. <u>Income Taxes</u>

This proceeding revisits two Federal income tax issues which were tried and decided in Formal Case No. 686. Other than those issues, a discussion of which follows, no contest has been raised. Accordingly, in all other respects we will continue to abide by our

decision in the 1979 case without further discussion and the resultant tax costs and allowances resulting there from.

1. Taxes - Normalization -Unamortized Construction Overheads

Beginning in 1977 WGL began to defer, for rate purposes, the tax effect of capitalized construction overheads, 38/ thereby normalizing its taxes.

The issue of "normalization" vs. "flow-through" was decided by this Commission in Formal Case No. 686, wherein we rejected the normalization theory, stating that the record did not support the adoption of normalization. However, we also stated that if WGL could present a more persuasive case in the future, the Commission would re-consider the issue (Order No. 6051, PP. 59-62).

Staff agrees with WGL that the record in this proceeding more than adequately supports the adoption of normalization. Staff also makes note of the fact that the unamortized balance of deferred taxes has been deducted from the rate base.

38/ Construction overheads include expenditures for pension and group insurance premiums for construction workers, interest on debt in AFUDC, construction, related administrative and general expenses, and social security and unemployment compensation taxes for construction workers. Under traditional ratemaking practices, these funds are capitalized and recovered from WGL's ratepayers over the useful life of the completed construction. This method is peculiar to a regulated industry. In other business enterprises, only expenses for construction are recorded as an expense on the books of account when incurred and taken into account for current taxes. However, when calculating Federal corporate income tax, the Internal Revenue Code and not regulatory practices are followed. The distinctions between regulated and non-regulated industries is disregarded when calculating corporate income taxes, because under current provisions of the Internal Revenue Code, expenses such as those incurred in construction may be deducted currently, and effectively reduce the amount of taxes paid currently.

In several other cases the Commission has confronted and resolved similar disputes over normalization versus flow-through. See Potomac Electric Power Company, F.C. No. 685, Order No. 6096 at 71-73; Chesapeake and Potomac Telephone Company, F.C. No. 631, Order No. 5790 at 89-90. PEPCO currently is permitted to normalize its construction overheads. Despite this, in F.C. No. 686 the Commission provisionally decided against allowing WGL to normalize construction overheads. Instead, we required that the full amount of the deductions be "flowed-through" as a reduction to WGL's test year income tax expense. We expressed concern that normalization could produce a permanent tax saving at the expense of the ratepayers (Id., p. 62). WGL maintains that normalization provides substantial benefits to the ratepayers and the utility through reduced overall revenue requirements and lower capital costs.

WGL maintains that normalization produces tangible benefits for the consumer which will lead to lower capital costs for the utility and lower rates for the customer. One of the benefits, WGL states, is increased cash flow which results in expanded use of internally generated funds for investment and less reliance on outside borrowing.

WGL argues that although flow-through may produce a lower revenue requirement for the first year of a given asset's life, thereafter and on an overall basis the normalization yields a lower revenue requirement.

Normalization results in lower rates, WGL claims, in that during the useful life of each year's addition to utility plant, WGL's revenue requirement is reduced below what it would be under flow-through because the accumulated deferred income tax balance is subtracted from the rate base. This reduction, WGL states, produces, on a permanent basis, a substantially lower revenue requirement for return and taxes.

With regard to its cash flow position, WGL states that if the Commission allows the normalization of these construction overheads it will be able to avoid some short-term borrowing, thus enabling it to increase its debt coverage and enter the conventional and less costly capital markets.

WGL maintains that FERC's proposed rule on this subject also recognizes that "normalization produces beneficial effects on cash flow and on the cost of obtaining financial capital." Notice of Proposed Rulemaking Docket No. RM 80-42.

WGL states that the Commission's reason for disallowing or disregarding the normalization argument in the record at F.C. 686 is no longer applicable. In that case the Commission found that WGL did not appear to have cash flow difficulties; however, that is not the case in the instant proceeding.

WGL maintains that the Commission should not be concerned with the possibility of a permanent tax savings (the concern expressed in Order No. 6051 at 62), as WGL's witnesses have explained that there are no permanent savings to a utility as a result of normalization because the deferred tax deduction associated with all portions of plant are returned to the ratepayers over the useful life of the plant.

WGL states that the deferred tax account balance can be expected to increase over time but that is no different than any other account that increases as the size of the company grows.

OPC argues that WGL has added neither factual nor other authoritative support for its proposed normalization and that the conclusion expressed in Order No. 6051 by the Commission should be reaffirmed here.

OPC cites Public Systems, et. al. v. Federal Energy Regulatory Commission, 606 F.2d 973 (D.C. Cir. 1979) where the United States District Court of Appeals for the District of Columbia acknowledged that normalization has been upheld when there was at least a very low probability of tax savings and ruled that a general policy in favor of tax normalization must "comport with the spirit of federal utility regulations by insuring that ... consumers at least will suffer no detriment under CITA [normalization]." OPC states that since the Commission's enabling act contains identical public interest provisions as the Federal Power and Natural Gas Acts, the authorities cited require WGL to show that normalization will in all probability yield no permanent tax savings or other detriment for the consumer.

OPC further argues that WGL has failed to meet its burden of proof and that the Commission need proceed no further. However, the OPC urges consideration of the testimony offered by its Witness Marquart. He testified that if WGL is permitted to normalize the tax deductions here at issue, the consumer will pay unincurred income taxes and an "abnormalized" return allowance because neither the rate base nor the depreciation allowances are "levelized" in a fashion consistent with deferred recognition of the instant tax deductions. This results, states OPC, in current customers paying a disproportionate amount of WGL's rate of return allowance during the formative years of the property to which these deductions arguably relate in exchange for the promise of a deduction of "deferred" taxes from rate base in future rate proceedings.

OPC further maintains that the benefits to the consumer of tax normalization have not and cannot be quantified while the economic burdens to the ratepayer of paying unincurred income taxes are obvious.

Finally, OPC argues that the monies paid to WGL by the consumers are essentially after tax dollars and that the consumer is being asked to pay or borrow "hard dollars in exchange for an elusive unquantifiable benefit."

WGL has submitted a great deal of testimony and argument in an attempt to convince us that the Commission was wrong in its resolution of the issue in Case No. 686. It contends that circumstances have changed since that decision and that these "recent developments" underscore the correctness of WGL's position that normalization is proper. Insofar as we can determine, the only "recent development" in this area worthy of note are (1) WGL's claim that it needs the additional cash flow that normalization would provide; (2) The promulgation of a proposed rule by FERC approving normalization; and (3) The fact that Staff in this case has endorsed WGL's position. OPC continues to oppose normalization.

We have given serious consideration to the various presentations, and to the many arguments advanced by each of the parties. In Order No. 6051 we explained at some length the reasons which persuaded us to deny the request for the normalization of construction overheads

and to require flow through of the tax benefits. Considering WGL's presentation in the best possible light, and taking into account the respective arguments of OPC and staff, it is our conclusion that nothing has been presented to warrant any different outcome on this issue than was derived in the prior WGL decision.

We recognize that this is an issue on which reasonable individuals may differ. Considering that WGL has now had two opportunities to advance all possible arguments in favor of normalization, we are unconvinced, in the final analysis, that the reasons favoring such treatment here are significantly stronger than they were on the last go-around. WGL's argument that it needs these benefits to assist its cash flow situation is unavailing. While we have no doubt that these monies would be helpful in this regard, this is hardly a reason to impose a substantial cost on WGL's ratepayers, even one of a short run nature.

In sum, it is our conclusion that OPC continues to have the better argument and that the tax effects of construction overheads should not be normalized for ratemaking purposes but, rather, should be flowed through to WGL's ratepayers.

2. Crab Run Losses

Washington Gas Light states in its brief that the Commission should reevaluate the position taken in Formal Case No. 686 where it decided that WGL shareholders should not retain all of the tax savings attributable to the Crab Run Gas Company's loses. This decision, it asserts, should be reconsidered in light of Staff's endorsement of the WGL position and recent FERC decisions.

WGL points to the Columbia Gulf Transmission Company case, FERC Opinions No. 47 and 47-A, issued shortly after the Commission decided F.C. No. 686, wherein the FERC thoroughly reassessed the issue of consolidated taxes and concluded that the regulated gas company's income tax allowance should not be reduced on account of the losses of the gas exploration and development affiliate with which the gas company files a consolidated return.

This matter was considered at length in Order No. 6051, pages 54-58, and the issue is now before the

Court of Appeals in Case No. 79-587. The only additional considerations are those noted above in WGL's brief. Little attention was given this issue in the hearings. Staff's expressions are confined to a few pages in its exhibits and in the hearing transcript.

Considering that the issue is pending judicial review and the paucity of additional evidence on the subject in this proceeding, we will abide by our prior decision for present purposes, without impairment of WGL's right to seek a full re-adjudication of the issue in a subsequent case. We would caution WGL, however, that substantially more evidence would be required than was here presented to induce a change in our conclusion.

V. ALLOCATIONS

A. Administrative and General

WGL serves consumers in three separate jurisdictions with facilities which are planned, constructed and operated on a system basis. During the course of a proceeding such as this, it becomes necessary to allocate common or jointly used property and other assets to each of the various jurisdictions, as well as to directly assign other assets in order to determine the proper rate base for each of the three jurisdictions. Operating revenues, expenses and other deductions from earnings must be similarly determined in order to enable the Commission to measure the utility's earnings within the District of Columbia. In this proceeding, WGL has proposed no change in its allocation methodology from that which has been used since 1972. WGL states that when its operations and rates were fixed uniformly throughout the service area of Maryland, Virginia and the District of Columbia in 1972, the difficulty of allocation did not arise. However, in 1972, the regulatory agencies in each jurisdiction began independently to fix rates applicable to their respective jurisdictions. WGL states that the use of an allocation method approved by all three Commissions provides a continuation and a symbiotic relationship between the jurisdictions in that all consumers in all jurisdictions have been treated alike without the threat of a customer in two different jurisdictions being charged for the same expense. WGL maintains that this practice should continue. In that regard, WGL points to the resolution adopted by the National Association of Regulatory Utility Commissioners (NARUC) Bulletin No. 9-1979, February 26, 1979, wherein the National Association urged state commissions with jurisdiction over utilities in more than one state to cooperate in the areas of common interest. WGL suggests that the route taken by the Commission in Potomac Electric Power Company, Order No. 7135 at p. 39 (F.C. No. 715) be continued and that no changes be made in any jursidiction except with the cooperation of the neighboring commissions.

WGL's proposals for the allocation of administrative and general expenses are based upon the same allocation which was used by the Commission in F.C. No. 647 wherein the allocation is computed on the basis of

a factor, expressed in terms of a labor expense, which composites numerous factors including therm sales, plant and other bases.

WGL claims that all administrative and general expenses, not directly assigned or allocated, should be determined on the basis of a composite operation and maintenance labor expenses as a surrogate for the total operation and maintenance expenses.

In Order No. 6051, p. 76, this Commission ordered WGL, in its next cost of service,

> "...to either reflect A&G expense allocation solely according to a modified "Massachusetts Formula" or if it nonetheless still advocates a different approach, present a complete alternate cost of service which reflects allocation under a modified "Massachusetts Formula."

In WGL's present application the company continued to use its prior methodology. However, it did submit an exhibit which reflects its version of the modified Massachusetts Formula. (WGL Ex. JJ-2)

WGL states that the modified Massachusetts Formula, if used in the instant proceeding, would reduce the impact of the costs allocated to the District of Columbia, thereby presumably shifting these costs to other jursidictions, only if one assumes the regulatory commissions in those states adopted the Massachusetts Formula as a joint approach.

The Massachusetts Formula is used by the Massachusetts Department of Revenue in determining the net income subject to income tax levied by Massachusetts in cases involving corporations doing business in Massachusetts and other states. The net income taxable in Massachusetts is determined by multiplying the total net income by an apportionment percentage derived by the use of a formula which first determines the percentage applicable to Massachusetts for each of the following factors: tangible property, both real and personal; wages, salaries, and other compensation; and sales. The percentage for sales is then multiplied by two (2), the percentages are added, and the sum divided

by four (4). The quotient thus derived becomes the apportionment percentage used in determining the net income which is taxable in Massachusetts. WGL points out that this formula was designed for tax purposes only and does not track expenses on the basis of the function for which those expenses were incurred. As such, WGL claims that the Massachusetts Formula "was never intended for use as an allocation method for ratemaking purposes."

WGL states that it must be recognized that in the allocation of costs, mechanical application of a formula cannot be made to give scientific exactitude to a result. Judgment must be applied by the Commission and by the parties in making the allocation. Colorado Interstate Gas Co. v. F.P.C., 324 U.S. 581 at 589 (1945). The function or operation which leads to the incurrence of the expense, WGL maintains, should also lead to the placement of the cost. Regulatory commission expenses may be directly assigned to the jurisdiction which causes their incurrence, but overhead costs, such as some of the other administrative and general expenses, generally will be incurred for all jursidictions on a system basis, requiring allocation upon a method designed to fairly apportion them.

WGL states that until a different approach can be determined which is fair, equitable and reasonable to all customers and is superior to the method used by WGL in this case, the existing allocation bases should be maintained.

OPC states that WGL has in fact allocated its administrative and general expenses on the basis of the factor of labor, the largest allocable percentage of any single major cost element in the District of Columbia. OPC contends that notwithstanding the use of other factors by WGL, its associated labor expenses are either directly charged or allocated on the basis of sales, plant location and labor. With this OPC disagrees because many of the other elements used to weigh the composite labor ratio are likewise directly charged or allocated on the basis of therm sales, distribution plant, maintenance expense and other elements which are based on location and therefore directly assigned to individual jurisdictions. The effect of inclusion of these other factors, OPC maintains, is negligible; the labor allocation is essentially dependent on directly assigned labor. In essence, OPC states the company's

formula still reflects only a single element of cost causation with only little influence from the other allocation factors, despite the Commissions instructions in Case No. 686. In addition, OPC contends, even assuming, arguendo, that WGL's method for determining the composite labor allocation ratio does bring in elements other than labor, the non-labor components have such little impact on the composite ratio that the factoring of the other elements is insignificant. OPC maintains that the WGL methodology fails to encompass the overall cost of service picture and that the most significant factors of cost of service - therm sales and distribution - are ignored by the WGL method. It concurs in the Commission's approval of the modified Massachusetts Formula theory in F.C. No. 686 because it recognizes and remedies the problems inherent in the WGL labor-only allocation method.

OPC objects to the Staff method in that the Staff approach is substantially similar to that proposed by WGL in using the composite labor ratio to allocate salaries, office supplies, outside services and employees expenses, which comprise 90% of administrative and general expenses. The allocation of the remainder which differs from the WGL approach is, according to OPC, de minimis.

OPC maintains that the WGL and the Staff methodologies suffer from the same shortcomings as were present in the Formal Case No. 686 approach and the subjective arbitrary judgment regarding the single critical factor. In addition, it differs insignificantly in practical effect from the WGL approach in composite weighting used in deriving its labor ratio.

The concept of the Massachusetts Formula has been used in allocating a utility's expenses among the various jurisdictions served by that particular utility. See: Midwestern Gas Transmission Company, Docket No. RP61-19, RP62-7, Opinion No. 444 (FPC 1964). However, WGL uses a different allocation method for allocating administrative and general expenses among its three jurisdictions. The basic difference between WGL's allocation method and the Massachusetts Formula is that the latter is a simple average whereas WGL's method is a weighted average. OPC does not adopt the Massachusetts Formula, but advocates the allocation of

all administrative and general expenses on the basis of a composite ratio which reflects all of the factors on a simple weighted basis which cause WGL to incur these expenses. OPC criticizes WGL's allocation method, stating that WGL's method advocates the allocation of all expenses on the basis of a factor which almost exclusively reflects only labor expenses. However, a close look at WGL's allocation method clearly indicates that it is based on a composite of a number of factors including therm sales, weather gas, transmission plant, mains and station equipment expense, meters and service expense, distribution plant, peak day annual sales, number of meter readers, number of completed orders, and average meters.

In this case Staff did not utilize the Massachusetts Formula and, instead, chose to make certain modifications to WGL's method. Staff witness Raymond made an analysis of each of the subaccounts within the administrative and general expenses for the purpose of determining which of these did not have to be allocated. These expenses were then directly assigned to the jurisdiction for which the expense was incurred. Other administrative and general expenses, not susceptible to direct assignment, were allocated based on the cause of their incurrence.

The modified Massachusetts Formula, as presented in this case, gives equal weight to therm sales, revenue and plant. This adjustment has the effect of reducing the share of WGL's operation and maintenance expenses allocated to D.C. operators by $856,000. In our opinion this method appears to allocate all non-assigned administrative and general expenses consistent with their reason and manner of incurrence. Accordingly, we adopt this modified Massachusetts Formula, and the results thereof, for the purposes of this discussion.

B. Sales Promotion

Sales promotion expenses are defined by FERC accounts 910, 911, 912, 913 and 916. These expenses are general in nature and relate to supervisory office expenses and direct expenses associated with the promotion and retention of customers.

WGL allocated its sales promotion expenses on the basis of meters, an approach approved in F.C. No. 686.

WGL analyzed this method at the request of the Commission in Formal Case No. 686 and determined that the existing basis was fair and reasonable and most reasonably tracks the causes of these expenses.

Staff was the only party to suggest an alternative allocation basis and believes that the allocation should be made on the basis of therm sales since increased sales are measured in therms . Staff did not support this position, however, in its brief.

WGL states that the Staff method should be rejected since promotional expenses relate to the addition and retention of customers and that customer size is immaterial. It therefore requests that the method utilized by it in this case be once again adopted by the Commission.

Since Staff has not carried the burden of proof so as to require a change, we see no reason to change the allocation method from that approved in Formal Case No. 686.

C. <u>Supervision and Engineering</u>

WGL has proposed that the supervision and engineering expenses also be allocated on the existing allocation methodology previously adopted by the Commission in Formal Case No. 686 . The allocated cost, states WGL, is attributable to the function performed by the expenses incurred and as such is founded upon a reasonable basis giving a fair result to all three of the jurisdictions. WGL also presented two alternative treatments which could be considered for adoption as an expression of potential improvement in the existing allocation method.

The current methodology relies upon a composite allocation factor based upon the distribution operating expenses associated with the names and regulating station equipment. Staff's position is not stated in its brief. In hearing Staff proposed a modification of WGL's witness' presentation which was further modified as the case proceeded. WGL suggests that the Staff proposal be rejected in that the result, although allocating potentially fewer expense dollars to the District of Columbia, needs a fuller analysis in order to develop into an appropriate allocation method. We agree and will stay with the method used in WGL's last case.

D. Operating and Maintenance

In Order No. 6051, we requested WGL to provide a full justification its allocation of distribution, operation, supervision and engineering expenses in its next rate increase filing. While WGL, in its cost of service presentation, has used the same method as was used in Formal Case No. 686, it nevertheless recommends a more appropriate basis for the allocation of these expenses (WGL Exh. J, pp 9-10). OPC did not present testimony on this issue, but accepted WGL's method. Staff originally disagreed with this allocation method, but having subsequently been provided additional information, agreed with WGL's recommendation as constituting a superior allocation basis.

All parties addressing this matter appear to agree that WGL's recommended basis for allocating these expenses is an appropriate one. The method is adopted by the Commission.

VI. OTHER ISSUES

A. Stipulated Matters

The following additional issues have been agreed to by all parties by stipulation and are approved by the Commission:

B. Normal Weather Year

"For purpose of this case, the normal weather year is the calendar year ending December 31, 1979, and the normal weather degree days for that year are 3,958, as determined by the least squares trending method."

C. Sale of No. 2 Oil

"The treatment of the profit from the sale of propane was an issue in Formal Case No. 686 (Order No. 6051), and is an issue now before the District of Columbia Court of Appeals (No. 79-587). The ultimate resolution in Formal Case No. 686, and appeals therefrom, of the appropriate treatment of the profit from the sale of propane will establish the method for treating the profit on the particular sale of No. 2 oil involved in this case."

"Pending resolution of the treatment of the profit from the sale of propane, the profit from the sale of No. 2 oil shall not be treated for cost-of-service purposes so as to reduce WGL's revenue requirement in the instant proceeding. If the Commission's treatment of the profit from the sale of propane is affirmed, WGL shall refund through the Actual Cost Adjustment section of General Service Provision No. 16 -- Purchased Gas Adjustment (Section IV), the District of Columbia's allocable share of the profit from the sale of No. 2 oil."

D. Cost of Service

"WGL's cost of service shall include:

"(a) A $63,000 pro forma adjustment to the cost of No. 2 oil for the Watergate facility included in District of Columbia production expenses (Exhibit WGL (II)-1, page 6, line 8); and

"(b) $110,000 to reflect the January 1980 pay rate for management overtime and expenses related to the union job re-evaluations pursuant to the 1979 labor contracts (Exhibit WGL (JJ)-1, Schedule 3)."

E. Tax Matters

"The ratemaking treatment of the effect of the change in the federal corporate income tax rate on the accumulated deferred tax reserve should be handled by using the method proposed by WGL (Exhibit WGL (F), page 17, and as reflected in Exhibit WGL (II)-1, page 24). Under this method, deferred income taxes are maintained by vintage and function so that the deferred income taxes that are allocated (credited back) to income will be equal to the deferred income taxes that were initially provided."

"This agreement does not affect the issue of the annualization of the amortization of the investment tax credit deferral."

"The ratemaking treatment for the income tax effect of construction overheads ("flow through" versus "normalization"), although not separately numbered in

Order No. 7040, is a separate issue to be resolved in this proceeding."

F. Rate Base Matters

"WGL's inclusion in rate base of materials and supplies in Exhibit WGL (JJ)-1, Schedule 1, page 1, line 42, is appropriate and the relationship between inventory materials and materials shifted to Construction Work in Progress does not result in "double counting" of any item."

"WGL's rate base and cost of service treatment of computer mapping expense shall be adopted for this case only."

G. Testing of Customer Meters

"Based upon the record in this proceeding, the parties agree that there is no basis for contesting the implementation of WGL's proposed changes to the Regulations for Gas Service in the District of Columbia as to Gas Meters, their Testing and the Characteristics of Gas Supplied to Customers, as reflected in Exhibit WGL (L)-3, Schedule 1."

H. Compliance with requirements of the Council on Wage and Price Stability (COWPS)

Pre-hearing Issue No. 10 concerns the applicability of the administration's voluntary program for the control of wages and price, 44 Fed. Reg. 64276, to WGL's request for an increase in its rates. 39/ The applicable part of the guidelines is Section 705.6, subsection (a), which provides:

> "If a compliance unit...cannot comply with the two-year price limitation because of

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39/ In Order No. 6051, F.C. No. 686, the Commission reviewed the initial standards of October 24, 1978, and the revisions of December 13, 1978. Arguments of WGL were rejected and the Commission determined that standards issued by COWPS would be enforced by the Commission. Order No. 6051 was made final by Order No. 6060, and the applicability of COWPS standards is an issue on review by the District of Columbia Court of Appeals (No. 79-587, supra).

> <u>uncontrollable increases in the prices of the goods and services that it buys</u>, it should satisfy the following two-part profit limitation...(emphasis added)."

WGL maintains that it conducts its operations in the face of "uncontrollable costs" was shown by its Witness Smallwood. Staff reviewed WGL's ennumerated cost increases and found that the proposed rate increase is in compliance with the Federal Wage Price Guidelines. It also concluded that its recommended rate increase is in compliance with the Federal Wage Price Guidelines .

The Office of Peoples Counsel claims that WGL has not properly demonstrated that its increase is in compliance with the wage and price guidelines. OPC claims WGL has not demonstrated that it cannot comply under the "threshhold" tests, namely: the two-year price limitation standards test (Part 705.2) and the gross margin standard test (Part 705.45). Further, OPC contends that the costs claimed by WGL to be uncontrollable are not contemplated by the guidelines.

In our opinion there is no reasonable basis to OPC's claim. The revenue requirement which we determine herein is no more than is necessary to satisfy the statutory mandate (D.C. Code § 43-411). OPC's claim is denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record made in this proceeding, the Commission finds and conludes as follows:

1. The 12-month period ended December 31, 1979, with appropriate adjustments, is the proper test year upon which to determine the Company's revenue requirement.

2. A fair rate of return on that portion of the Company's rate base allocable to its service in the District of Columbia is 9.6 percent.

3. The Company's adjusted net operating income for the test year allocable to its services in the District of Columbia is $4,600,000.

4. The Company's District of Columbia rate base as of December 31, 1979 is appropriate for determination of the Company's District of Columbia revenue requirements, and that rate base is $107,493,000.

5. The level of return called for by the application of the 9.6 percent rate of return to the adjusted District rate base of $107,493,000 for the test year is $10,319,000.

6. The Company's adjusted operating income of $4,600,000 for the test year was insufficient by $5,719,000.

7. The foregoing results in an overall gross revenue increase of $11,915,000, after tax adjustments and allowances.

8. The revenue increase found reasonable and authorized by this decision is required by Washington Gas Light Company to assist in the provision of safe, reliable and efficient service by the Company and to maintain its financial viability and all be permitted to be placed into effect on an interim basis, subject to refund based on the Commission's consideration of any exceptions which may be filed to these Proposed Opinion and Interim Order and the outcome of the decision in Phase II of this proceeding. The interim increase should be applied only to the commodity charge

in the form of a proportional across-the-board increase to each of the service classifications. Any deficiency in the rates paid by customers during the effectiveness of the interim increase shall be adjusted only prospectively. Any excess in rates paid by customers over those finally determined shall be subject to refund with interest at 8 percent per annum.

9. The increased revenues allowed the Company in this Opinion are just, reasonable, non-discriminatory and non-preferential.

10. Except to the extent allowed in this Opinion, the increased revenues and associated rates and charges proposed by the Company are unjust and unreasonable.

<u>THEREFORE, IT IS ORDERED THAT</u>:

1. That on a District of Columbia rate base of $107,493,000, which we find appropriate, the annual revenues herein authorized would represent a fair and reasonable rate of return of 9.6%.

2. That Washington Gas Light Company shall prepare and submit for our approval, rate schedules for retail gas service in the District of Columbia, consistent with the terms of this Order, reasonably calculated to produce additional revenue of $11,915,000, which when added to the test year revenue of $123,239,000 will produce gross revenue of $135,154,000.

3. That prior to the proposed effective date of the tariffs filed in accordance with Ordering Paragraph 2 above, The Washington Gas Light Company is directed to file, an amendment to the General Service Provisions which provides for the refund, with interest at 8 percent per annum, of any amounts which a customer pays while the aforesaid rates (or successor rates) are in effect which are in excess of the rates ultimately found to be just and reasonable. The rate increase shall be applied as provided in Finding Paragraph 8.

4. That upon receipt of such rate schedules from Washington Gas Light Company, the Commission shall undertake a review of their compliance with this Order,

and that in the event they are found to be in compliance, the Commission, within no less than five working days from their receipt, shall approve such rate schedules and permit them to go into effect.

5. This Proposed Opinion and Interim Order shall be served upon each party to this proceeding. No later than seven days following the date of issuance of this Opinion and Order, any party adversely affected may file exceptions in writing thereto, designating those portions of the record which said party wishes to be considered by those who are to render the final decision herein.

6. If no exceptions are filed in accordance with paragraph 5 above, this Proposed Opinion and Interim Order will be adopted as a final order effective ten days after the date of issuance hereof.

By the Commission

Ruth Hankins-Nesbitt
Acting Chairperson

APPENDIX

WASHINGTON GAS LIGHT COMPANY
Formal Case No. 722
Adjusted Operating Income - District of Columbia
For the Year Ended December 31, 1979
(000 Omitted)

Utility Operating Income:	
Operating Revenues:	
Sales of gas - to customers	$120,414
Other operating revenues:	
Late payment charges	461
Watergate	2,090
Other	274
Total other operating revenues	2,825
Total operating revenues	123,239
Operating Expenses:	
Operations	99,054
Maintenance	7,411
Depreciation	4,021
Amortization of unrecovered costs - Brandywine (net of taxes)	49
Amortization of deferred computer mapping expense (net of taxes)	23
Amortization of ARCO Settlement	(86)
General taxes	8,996
Federal income taxes - Per Company	(2,906)
Other income taxes - Per Company	522
Deferred income taxes	
Liberalized depreciation - Federal	236
- D.C.	40
Gain on reacquired debt - Federal	34
- D.C.	7
Investment tax credit adjustment - nct	1,238
Total operating expenses	118,639
Net utility operating income	$ 4,600

APPENDIX

WASHINGTON GAS LIGHT COMPANY
Formal Case No. 722
Rate Base for the Year Ended December 31, 1979
District of Columbia
(000 Omitted)

Description:

Gas plant in service	$138,052
Gas plant held for future use	83
Materials and supplies:	
General supplies	932
Fuels	1,038
Storage gas inventory	8,611
Cash working capital	5,453
Total	154,169
Less:	
Reserve for depreciation	44,958
Customer advances for construction	128
Deferred investment tax credit (1962 Revenue Act)	421
Deferred income taxes:	
Liberalized depreciation	1,169
Total Deductions from Rate Base	46,676
Total Rate Base - Net	$107,493

82-1658

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

FINAL OPINION AND ORDER

November 10, 1980

Formal Case No. 722, In the Matter of the Application of WASHINGTON GAS LIGHT COMPANY for Authority to Increase Existing Rates and Charges for Gas Service, Order No. 7209

Before the Commission:
Ruth Hankins-Nesbitt, Acting Chairperson
Wesley H. Long, Commissioner and
Patricia Worthy Clement, Commissioner

On October 3, 1980, the Commission, by Order No. 7193, issued a Proposed Opinion and Interim Order in the captioned proceeding on an application filed by Washington Gas Light Company (WGL) on June 29, 1979, wherein it sought to increase the rates and charges for gas service in the District of Columbia in order to produce an additional \$17.8 million in annual gross operating revenues. By Order No. 7193, predicated on an extensive review of the evidence and briefs, we determined that a gross revenue increase of \$11,915,000 after tax adjustments and allowances was reasonable and should be permitted to be placed into effect on an interim basis, subject to refund. The interim increase was permitted to become effective on October 18, 1980, following the submission by WGL of acceptable tariffs, issued October 17, 1980, subject to exceptions. (See Order No. 7204.)

Timely exceptions to Order No. 7193 have been filed by WGL, the Office of People's Counsel (OPC), the Apartment and Office Building Association of Metropolitan Washington (AOBA) and Coalition of Concerned Citizens (CCC). On consideration of the exceptions we find that no change in the Proposed Opinion and Interim Order has been shown necessary or appropriate. Accordingly, all exceptions will be denied. Some additional clarification is herein provided on several of the matters raised in the exceptions; they are, seriatim, as follows:

Washington Gas Light Company

A. Uncollectible Accounts

WGL first contends that in computing its revenue deficiency, we inadvertantly failed to add a 1.75% allowance for uncollectible accounts. The Company notes that this figure represents its current ratio of uncollectible accounts on gas sales in the District.

Order 7193 at paragraph 7 reads that "[this] results in an overall gross revenue increase of $11,915,000 after tax adjustments and allowances." The word "allowances" however was surplusage, the increase authorized shall include only the adjustment for taxes and no allowance for uncollectible accounts.

B. Return on Equity

WGL argues that the 13.25% rate of return on equity found reasonable in the Proposed Opinion should be increased to reflect current market conditions and market pressure and floatation costs resulting from the issuance of new common stock. These arguments were considered at length in the October 3 decision and rejected. The present assertions add nothing to the material or the considerations which were before the Commission in its earlier deliberations on this question. The 13.25% rate of return on equity allowed is fully consistent with the evidence and amply supported on the record. The exception is denied.

C. Energy Conservation

The Company again requests recognition of its claim of lost revenues arising from the Federal energy conservation program. As with the preceding item, this matter was fully considered and rejected. Even if we had been inclined to consider such an adjustment, there is no way on this record that the proper amount could have been determined. The exception does not convince us that we erred in denying the adjustment outright or, as now sought by WGL, that the adjustment should have been allowed subject to refund.

D. Administrative and General Expenses

WGL opposes the adoption of the Massachusetts Formula in the allocation of administrative and general expenses. Our reasons for the use of this method as modified are set out at length in Order No. 7193, pages 68-72, as are our reasons for not continuing WGL's existing method. Having determined that the method we here employ is correct for purposes of the present decision, we do not accept WGL's claim that its implementation should be deferred pending concurrent action by the other regulatory commissions in the jurisdictions in which WGL operates. This Commission is not bound by the conclusions reached by other regulatory agencies. Having independently determined that the method is appropriate for application in this case, we have no hesitancy in utilizing the method irrespective of the practices followed in the other jurisdictions in which WGL operates.

In Order No. 6051 at p. 76, this Commission ordered WGL, in its next cost of service study

> "...to either reflect A&G expense allocation solely according to a modified 'Massachusetts Formula' or, if it nonetheless still advocates a different approach, present a complete alternate cost of service which reflects allocation under a modified 'Massachusetts Formula'."

In WGL's present application the company continued to use its prior methodology.

WGL attempts to shift the burden to the Commission to establish the fairness and reasonableness of the Commission's method and prove that it is superior to that of the Company. We reject the effort to transfer the burden -- it still remains with the company. We find, further, that it has not met that burden, hence there is no basis in this record for the Commission to change its Proposed Order with respect to the allocations. The exception is denied.

E. Gas Research Institute

In Order No. 7193 we concluded that WGL should be permitted to recover the "current amount" of the charges included in its wholesale gas costs which is utilized to meet the operational costs of the Gas Research Institute. This current rate is 0.047 cents per therm which in 1979 amounted to $93,000, allocated to WGL's operations in the District. We also stated that any increases above the current amount "... will be considered in later rate cases." Order No. 7193, p. 61. WGL notes that the charges it must pay have already been increased, effective January 1, 1981, and requests that it be permitted to collect the effective GRI portion of its wholesale gas rates as fixed from time to time by appropriate authority.

WGL's exception is denied. We are aware (and were aware at the time the Proposed Opinion issued) that the per therm assessment would be increased effective January 1, 1981. Nevertheless, no increase over the current per therm charge was authorized since the increase has not been proven on the information before us and, although approved by FERC, has not been shown to be justified on a record before this Commission. Absent such justification we have no way of evaluating the merit of the increase or the proper amount to be accepted as allocable to District of Columbia ratepayers.

F. Formal Case 686 Issues

With regard to all other exceptions 1/ raised by WGL, we adhere to the positions taken in Formal Case No. 686, now undergoing court review. WGL's position is noted and its exceptions are denied.

1/ These issues include: Arco settlement (Order No. 7193 at 42-43); propane sale (*id*. at 43); trade associations, business and civic associations, and community affairs (*id*. at 57-58); consolidated tax savings (*id*. at 66-67); gain on reacquired debt (*id*. at 23-24); and normalization of construction overheads (*id*. at 62-66).

Finally, we note that WGL expressly has decided not to except to our ruling on the market re-entry issue.

Office of People's Counsel

A. Market Re-entry and Energy Conservation

OPC states that with several exceptions, it supports Proposed Opinion and Order No. 7193. Initially it requests greater detail of the basis for the market re-entry adjustment and, in addition, asserts that our decision to deny the revenue adjustment sought by WGL to reflect the energy conservation program was not implemented in the calculation of the allowed revenue increase. OPC also seeks clarification of the basis and reasoning for the revenue adjustment for the allocation of non-assigned administrative and general expenses.

We have reconsidered the calculations made in each of these areas and find that no significant error in fact was perpetrated. The computations are correct as made. The market re-entry and energy conservation adjustments proposed by WGL were set out for the District of Columbia in Exhibit K-3. Consistent with our decision to provide a $600,000 upward adjustment in net utility operating income for market re-entry while disallowing any downward adjustment for energy conservation. This adjustment has the effect of increasing operating revenues by $716,565 and operating expenses applicable thereto. The net adjustment of $590,691 is sufficiently close to the $600,000 specified in the Proposed Opinion so that no further modification is warranted. The difference between the figures, $9,309, is de minimis. Accordingly no change will be made to the appendix attached to the proposed order. OPC's exception to these matters will be rejected.

B. Interest Expense and Investment Tax Credit

OPC requests adjustments for synchronization of interest expense and for amortization of WGL's investment tax credit. These matters were not discussed in the Proposed Opinion for the reason that the record did not provide adequate information to evaluate the merit of the requested adjustments. There is no basis on which we can evaluate objectively and sufficiently the correctness of the amounts claimed by OPC or whether

the objections to the adjustments are warranted. In this circumstance their resolution must be deferred to a subsequent proceeding when, if desired, an opportunity will again be available for the presentation of reliable and substantive evidence thereon.

C. Other Issues

OPC objects to the portions of the decision involving WGL's investment in its subsidiaries, the cost for implementation of the Consumer Bill of Rights (OPC recommends they be shared equally between ratepayers and stockholders), the treatment of regulatory expenses, the denial of its recommendations with respect to cash working capital, and our use of a 1979 test year. It arguments on these issues do not add to the considerations previously before us and provide no basis for modification of our decision. Each matter was thoroughly considered and, in our opinion, decided correctly on the record made in the case. As indicated in the Proposed Opinion (p. 25), we share OPC's concern with including WGL's investment in its subsidiaries. However, as pointed out in the decision, the evidence was inadequate to permit any other treatment. We look forward to a more comprehensive development in this area in WGL's next rate case.

The same conclusion is required on the claim for greater accountability in the matter of WGL's regulatory expense. In the next case we will expect and will look for the specificity on this matter set out in Order No. 7135 in order to be able to determine whether any unjustified expenses are being included in the rates charged consumers. The present record does not permit such a determination.

Apartment and Office Building Association

A. Customer Charge

AOBA excepts only to our directive that the interim revenue increase be applied only to the commodity charge in each of WGL's service classifications. AOBA objects on the basis that the temporary increase also should have been applied across-the-board to the customer charges.

In Order No. 7040, issued September 21, 1979, we determined that the proceeding should be conducted in two phases. Phase I, which is here nearing completion, would involve WGL's asserted need for increased revenues. The Order stated that at the conclusion of Phase I, a "new rate would be set, subject to refund." Order No. 7040, p. 9. As of this time no rate design evidence has been submitted by any party to the proceeding.

The limitation in the application of the interim increase solely to the commodity charge is, we believe, warranted on the present state of development of the record and is consistent with our obligation to protect and advance the public interest. The fact that no final rate design has been established at this time, or that the proceeding was phased as a matter of procedural and administrative convenience, does not limit the Commission in the application of the interim increase and does not, as claimed, deprive AOBA of due process. Our order phasing the proceeding contained no assurance that an increase found necessary in Phase I would only be applied across-the-board. The Commission has broad latitude in its application of an interim increase pending the completion of the rate design phase of a proceeding. 2/

THEREFORE, IT IS ORDERED:

1. That the exceptions to Order No. 7193, filed by Washington Gas Light Company, the Office of the People's Counsel, and the Apartment and Office Building Association of Metropolitan Washington and the Coalition of Concerned Citizens are denied.

2/ C & P Telephone Co. v. D.C. Public Service Commission, 330 A.2d 236 (CADC, 1974). The Commission's decision in Formal Case 686 concerning customer charges is pending before the D.C. Court of Appeals in No. 79-587, et al.

2. That Order No. 7193, together with this Order, shall constitute the final Opinion and Order of the Commission in Phase I of Formal Case No. 722.

A TRUE COPY:

Acting Chief Clerk

By the Commission:

R. Hankins Nesbitt

Ruth Hankins-Nesbitt
Acting Chairperson

82-1658

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

ORDER DENYING APPLICATIONS FOR RECONSIDERATION

December 24, 1980

Formal Case No. 722, In the Matter of the Application of WASHINGTON GAS LIGHT COMPANY for Authority to Increase Existing Rates and Charges for Gas Service, Order No.7237

Before the Commission:
Ruth Hankins-Nesbitt, Acting Chairperson
Wesley H. Long, Commissioner and
Patricia Worthy Clement, Commissioner

On October 3, 1980, the Commission, by Order No. 7193, issued a Proposed Opinion and Interim order in the captioned proceeding on an application filed June 29, 1979, by Washington Gas Light Company (WGL) wherein it sought to increase its rates and charges for gas service in the District of Columbia to produce an additional \$17.8 million in annual gross operating revenues. In Order No. 7193 we determined that a gross revenue increase of \$11,915,000 was reasonable and should be permitted to be placed into effect on an interim basis, subject to refund, pending our consideration of any exceptions to that Order and the conclusions reached in Phase II of this proceeding.1/ The interim increase became effective on October 18, 1980.

By Order No. 7209 we considered and denied a variety of exceptions filed by several of the active parties to the proceeding, including WGL and the Office of the People's Counsel (OPC). The Order also provided some additional clarification on several of the matters raised in the exceptions.

1/ Phase II, which is nearing completion, involves rate structure, a management audit and further examination of WGL's efforts to acquire new and additional sales.

The foregoing recitation brings us to the subject of the present Order. On December 10, 1980, OPC and WGL filed applications for reconsideration of Order No. 7209. OPC asserts that the additional revenue requirement of $11,915,000 annually determined in Order No. 7193 should be reduced to $10,996,000 based on the correction of alleged computations errors in the decision and a revision of the allocation of the Company's administrative and general (A&G) expenses. OPC also contends that certain other matters were incorrectly treated and, if properly resolved, i.e. in accordance with its claims, would result in a rate increase "significantly less than that approved by the Commission." WGL, in its petition objects to several of our determinations on matters in issue in the proceeding including the allocation of A&G expense, the rate of return on equity, the amount allowed for GRI expenses, the refusal to add an additional amount for uncollectibles in the rates determined in Phase I. Two decisions dealing with taxes, and other issues on which judicial review is pending from an earlier proceeding.

Review of the petitions for reconsideration leads us to conclude that no adjustments should be made in the Phase I decision, at least at this time. We will not prejudge the Phase II matters, nor our decision therein. The present rates are being collected subject to refund and any modifications for computational deficiences, will be considered at the conclusion of Phase II. Any interim adjustment at this time would in our opinion only foster a sense of rate instability among WGL's customers.

Office of the People's Counsel

OPC again raises the test year issue. This matter, as even the applicant notes, was decided in the decision adverse to its claims and our reasons were clearly articulated. We see no basis to reconsider this matter.

OPC claims the GSA contract revenues were incorrectly computed, resulting in a $215,000 understatement of test period revenues a concommitant overstatement in the rate increase granted. OPC also seeks a $44,000 correction in the computation of the adjustment for

market re-entry and energy conservation. As OPC is well aware, the market re-entry issue has been the subject of a further examination in Phase II of this proceeding. Consequently, our Phase I decision on this issue represents only a "first cut" with regard to a final resolution.

As noted in Order No. 7193, we have utilized the opportunity presented by Phase II to consider whether any incentives are necessary to induce WGL to seek new business in order to distribute its costs more widely.

Finally, OPC again requests (1) adjustments for interest expense and annulaization of WGL's investment tax credit; (2) further explanation of the adjustment for market re-entry and cash working capital; and (3) further clarification of the basis for the adoption of the A&G expense allocation methodology. These matters were all reviewed in Order No. 7209 and no further elaboration was required. We continue to adhere to that view.

Washington Gas Light Company

WGL also raises the question of our use of the modified "Massachusetts Formula" in allocating A&G expense, although in a somewhat different context. WGL argues that since no party testified in support of the Massachusetts Formula, the Commission may not require its use without finding that WGL's existing method is unjust and unreasonable. In support of its proposition WGL cites the recent decision by the U.S. Court of Appeals for the District of Columbia Circuit in Public Service Commission of the State of New York v. FERC, ____ F.2d ______, No. 79-2182, issued September 24, 1980.

We have examined the cited decision and find it totally inapposite to our determination here. In that case FERC attempted to change the zone differentials without first finding, as required under the Natural Gas Act, that the existing zone rates were unjust and unreasonable. The issue before FERC was one of rate design, involving the allocation of the cost-of-service of an interstate pipeline company among its customers served along the various segments, of its transmission

system. However the costs were allocated, the totality of the costs remained unaffected and the company was assured of full recovery. Here we are concerned not with a matter of rate design but, rather, the determination of the proper amount of the overall A&G expense to be allocated to District of Columbia customers. Unlike the action by FERC, we are not changing the form of revenue recovery as a matter of preferring one method over the other. To the contrary, our decision involves the amount of A&G costs to be comprehended in WGL's District of Columbia revenue requirement and is, therefore, no different than our decision on any of the other components of costs going to make up the Company's cost-of-service. 2/

Thus, our determination is more akin to the Court's resolution of the rate of return issue in the PSCNY case, where the court approved the Commission's determination of a change in the pre-existing return allowance on equity without the necessity for a finding that the return was unreasonable.

There is another fundamental distinction between the PSCNY decision and the situation herein. In the FERC case, as brought out in the Court's decision, no party had challenged the existing allocation method, the Commission placed the burden of proof on the opponents of the change rather than on itself, and the Commission failed to make the findings that the existing zone rates were unreasonable.

We do not and have not concerned ourselves with the question of whether or not a complete parallel exists between the requirements of Section 5(a) of the Natural Gas Act as interpreted by the Court of Appeals and Section 43-411 of the D.C. Code. It is sufficient

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2/ Even though WGL did not propose to change this element of its costs, the interdependence among all elements serving to make up the new revenue requirement requires that each element be proved for inclusion in the overall amount. Properly determining each cost component is an integral part of determining the validity of a rate increase request.

to note that in Order No. 6051, issued February 13, 1979, in WGL's prior rate case, we specifically noted the distinct advantages inherent in the modified Massachusetts Formula and required "WGL to fully address a modified 'Massachusetts Formula' in the next general rate filing." In this case wGL continued to use its prior methodology but did submit an exhibit reflecting its version of the modified Massachusetts Formula. OPC concurred in our tentative approval of the modified Massachusetts Formula in Order No. 686, strongly criticized WGL's allocation method and also objected to staff's method, a modification of WGL's propsoal. Thus, the issue was fully before the Commission and no undue burden was cast on WGL. In Order No. 7193 we reviewed at length the claimed advantages and disadvantages of the several methods on a full evidentiary development and concluded, we believe clearly, that the modified Massachusetts Formula represented a superior resolution of the issue. If any residual doubt remains, we hereby declare our conclusion, based on the findings in Order No. 7193, both alone and as supplemented by those in Order No. 6051, that the modified Massachusetts Formula has been shown to be a proper and on this record, is the proper method for the determination of the share of WGL's A&G operation and maintenance expenses allocated to D.C. operations. Any other method, including that previously in use by WGL, does not, we find, produce a just and reasonable result.

As a final consideration on this subject, WGL claims that we failed to adequately state our reasons for requiring the new allocation method and have discriminated against it by unilaterally imposing the new method. It should be obvious from our above statements that we believe our reasons have been fully stated: the method better reflects the incurrence factors giving rise to the costs being allocated. The "discrimination" claim was considered and dismissed in Order No. 7209, p.5. Having determined the proper procedure for purposes of this case, we see no merit in deferring its implementation to await companion action by the regulatory agencies in the other jurisdictions in which WGL operates.

WGL claims the in establishing its return allowance on equity we ignored current market conditions and

the market pressure and floatation costs on the common stock offering it "intends to make...mext year." These matters were fully analyzed and determined; WGL's petition adds nothing to the pertinent considerations. The common stock issuance question, in particular, was fully reviewed. The fact that WGL does not agree with our conclusion does not provide a basis for change. The quotation at p. 28 of Order No. 7193, included from Order No. 6051, should have been sufficient to assure WGL that current market conditions were well within the ambit of the relevant considerations employed in our resolution of this issue.

As noted earlier, WGL objects to our decision not to reflect in these rates the increased GRI funding assessment it will begin paying on January 1, 1981, as part of its pipeline suppliers' FERC filed rates. We do not accept this adjustment as a known change, required to be reflected in these rates. Although the Supreme Court of Rhode Island in Narragansett Electric Co. v. Burke, 381 A.2d 1358 (RI. Supp. Ct. 1977), cert. denied, 435 U.P.S. 972 (1978), rejected an attempt by that state's commission to deny recovery in retail rates of any portion of the FERC-established wholesale rates. We believe that the issue of WGL's assessment rate for the support of GRI has not been finally resolved. The FERC approved rate is undergoing judicial review. See Colorado PUC v. FERC, CADC, No. 80-1117; see also Office of Consumers' Counsel v. FERC, ___ Fed. 2d ____, CADC, No. 80-1303, et al issued December 8, 1980. Assuming the revised rate is overturned, WGL, not having paid the increase, will not be required to make refunds to its customers. If the rate is sustained, WGL can seek current recovery via the filing of a proper rate change request. The fact that an exact matching of costs and revenues may not take place provides no basis for an additional allowance under existing circumstances.

The remaining matters raised by WGL require no discussion. The denial of the allowance for uncollectible accounts is plain. We remind WGL that this is a matter wholly within its control and that it may be possible to further minimize the amount of uncollectibles through greater effort in this area. Generally speaking, the Company did not in Phase I meet its

burden of proof on the issue of the allowance of uncollectible accounts.

Lastly, WGL raises a number of issues which were resolved pursuant to and in reliance on our decision in Formal Case No. 686 and which have been appealed. We adhere to our prior determinations on these matters.

The Motion for Reconsideration of Final Opinion and Order filed by the Coalition of Concerned Citizens re-argues the issues of socio-economic impact of rate increases and equitable rates under the National Energy Act (PURPA). These matters were considered and ruled on. The motion raises no new arguments and therefore requires no further discussion.

THEREFORE IT IS ORDERED:

1. That the application for reconsideration of Final Opinion and Order No. 7209 filed by Washington Gas Light Company is denied.

2. That the Application for Reconsideration of Office of the People's Counsel is denied as to all matters raised other than those involving alleged computational errors in establishing the revenue requirement, as to which, further review and adjustment, if any, is deferred pending our final order at the completion of Phase II of this proceeding.

3. That the Motion for Reconsideration of Final Opinion and Order filed by the Coalition of Concerned Citizens is denied.

A TRUE COPY:

By the Commission:

Wesley H. Long

Acting Chief Clerk

Wesley H. Long
Commissioner